

**PLANNING & ZONING COMMISSION**

ROBERT C. WHEATLEY, CHAIRMAN  
KIM HOEY STEVENSON, VICE-CHAIRMAN  
R. KELLER HOPKINS  
J. BRUCE MEARS  
HOLLY J. WINGATE



**Sussex County**

DELAWARE  
sussexcountyde.gov  
302-855-7878 T  
302-854-5079 F  
JAMIE WHITEHOUSE, MRTPI, AICP  
DIRECTOR OF PLANNING & ZONING

**PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET**

Planning Commission Public Hearing Date: April 22<sup>nd</sup>, 2021

Application: CZ 1926 CP Townhomes, LLC

Applicant: CP Townhomes, LLC  
105 Foulk Road  
Wilmington, DE 19803

Owner: Canal Pointe Maintenance Corporation  
P.O. Box 594  
Bethany Beach, DE 19930

Site Location: The community lies on the east side of Hebron Road approximately 0.19 mile southeast of Holland Glade Road (S.C.R 271)

Current Zoning: MR/RPC – Medium Density Residential, Residential Planned Community

Proposed Zoning: MR/RPC – Medium Density Residential, Residential Planned Community (Remove condition 15 of Ordinance 1700 (C/Z 1538))

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: Mr. Hudson

School District: Cape Henlopen School District

Fire District: Rehoboth Beach Fire Department

Sewer: Sussex County

Water: Tidewater Utilities

Site Area: 180.60 acres +/-

Tax Map ID.: 334-13.00-334.00, 1448.00 through 1750.00



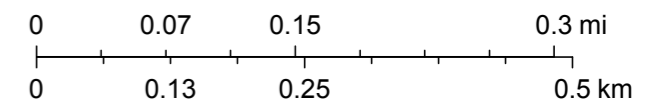
# Sussex County



February 18, 2021

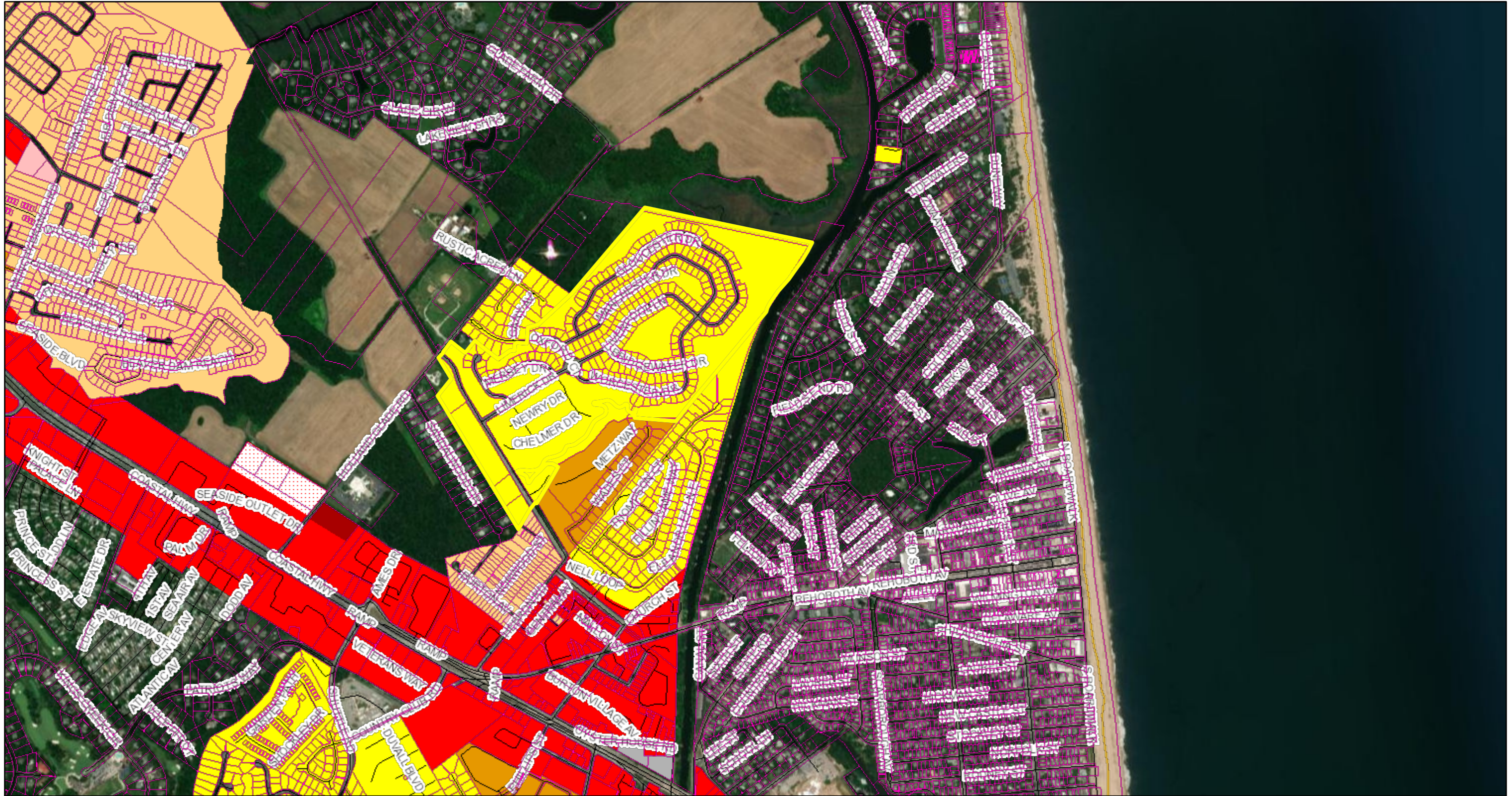
- Override 1
- Override 1
- Tax Parcels
- Streets
- County Boundaries
- Extent of Right-of-Way
- Municipal Boundaries

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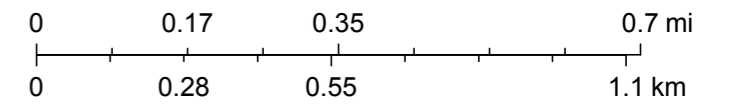
Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community, DNREC, Division of Watershed Stewardship, Drainage Program, john.inkster@state.de.us, Sussex County Government

# Sussex County



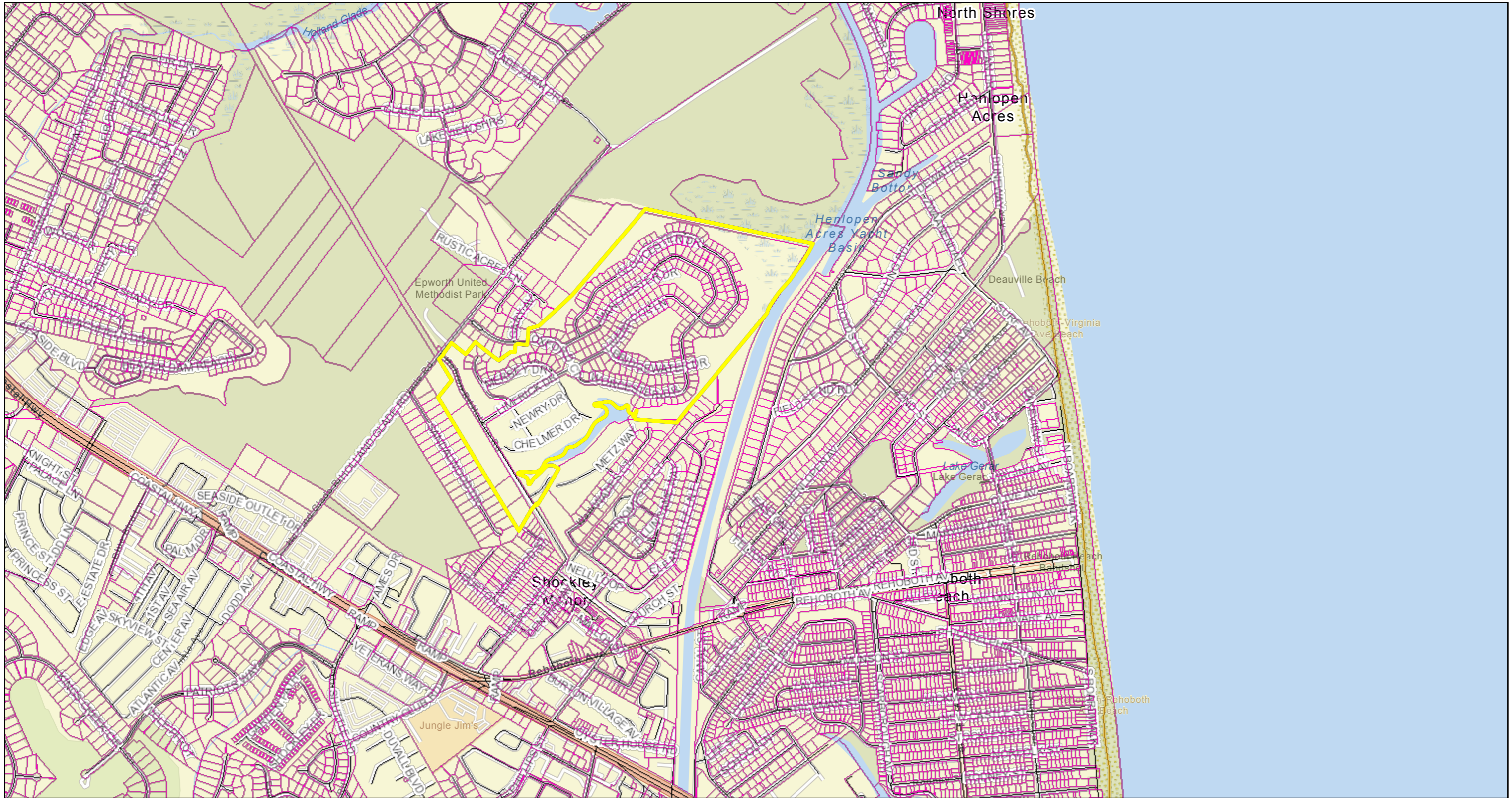
February 18, 2021

1:18,056



Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community, DNREC, Division of Watershed Stewardship, Drainage Program, john.inkster@state.de.us, Sussex County, Sussex County Government

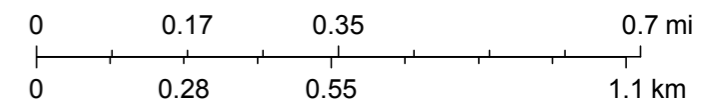
# Sussex County



February 18, 2021

1:18,056

- Override 1
- Tax Parcels
- County Boundaries
- Override 1
- Streets
- Extent of Right-of-Way



DNREC, Division of Watershed Stewardship, Drainage Program, john.inkster@state.de.us, Sussex County Government, Sources: Esri, HERE, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community

JAMIE WHITEHOUSE, AICP MRTPI  
PLANNING & ZONING DIRECTOR  
(302) 855-7878 T  
(302) 854-5079 F  
jamie.whitehouse@sussexcountyde.gov



**Sussex County**

DELAWARE  
sussexcountyde.gov

## Memorandum

To: Sussex County Planning Commission Members  
From: Nicholas Torrance, Planner I  
CC: Vince Robertson, Assistant County Attorney and applicant  
Date: April 15<sup>th</sup>, 2021  
RE: Staff Analysis for CZ 1926 CP Townhomes, LLC

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This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1926 CP Townhomes, LLC to be reviewed during the April 22, 2021, Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for an Amendment to the Conditions of Approval for the existing Change of Zone (CZ 1538) for Rebay, LLC for a change of zone from AR-1 to MR/RPC on Tax Parcel 334-13.00-334.00. Specifically, the applicant is requesting an amendment to Condition "15" which requires the provision of "No piers, docks, boat ramps, or other water-related facilities shall be permitted" on the site. The applicant has suggested that this condition be struck from the Conditions of Approval and all other conditions would remain. The previous Change of Zone application was recommended for approval by the Planning and Zoning Commission at their meeting of Thursday, June 10<sup>th</sup>, 2004 and approved by the Sussex County Council at their meeting of Tuesday, June 29<sup>th</sup>, 2004 and the change of zone was adopted through Ordinance No. 1700. Copies of the Meeting Minutes from both of these meetings have been attached to this memo for circulation to members of the Commission and Council.

The community lies on the east side of Hebron Road approximately 0.19 mile southeast of Holland Glade Road (S.C.R 271). The property consists of 180.60 acres +/-.

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use map in the plan indicates that the subject property has a land use designation of "Coastal Area."

The Coastal Area land use designation recognizes that a range of housing types should be permitted in Coastal Area, including single-family homes, townhouses, and multifamily units. Retail and office uses are appropriate but larger shopping centers and office parks should be confined to selected locations with access along arterial roads. Appropriate mixed-use development should also be allowed. It also recognizes a careful mixture of homes with light commercial, office and institutional uses can be appropriate to provide convenient services and to allow people to work close to home.

Based on the analysis of the land use, surrounding zoning, and uses, an Amendment to Condition "15" of the previously approved Change of Zone (CZ 1538) could be considered as being consistent with the land use, area zoning, and surrounding uses.



File #: C12 1926  
202008240

## Planning & Zoning Commission Application Sussex County, Delaware

Sussex County Planning & Zoning Department  
2 The Circle (P.O. Box 417) Georgetown, DE 19947  
302-855-7878 ph. 302-854-5079 fax

RECEIVED

JUL 20 2020

SUSSEX COUNTY  
PLANNING & ZONING

**Type of Application: (please check applicable)**

Conditional Use   
Zoning Map Amendment

**Site Address of Conditional Use/Zoning Map Amendment**

Limerick Drive, Canal Point Open Space Areas

**Type of Conditional Use Requested:**

Amendment to Condition 15 of Ordinance 1700 (C/Z No. 1538)

**Tax Map #:** 3-34-13.00-1745.00

**Size of Parcel(s):** 36.61

**Current Zoning:** RPC

**Proposed Zoning:** RPC

**Size of Building:** Varies

**Land Use Classification:** Mixed Use Residential

**Water Provider:** Tidewater Utilities, Inc.

**Sewer Provider:** Sussex County

**Applicant Information**

**Applicant Name:** CP Townhomes, LLL (Bill Krapf)

**Applicant Address:** 105 Foulk Road

**City:** Wilmington

**State:** DE

**Zip Code:** 19803

**Phone #:** \_\_\_\_\_

**E-mail:** bkrampf@capanoinc.com

**Owner Information**

**Owner Name:** Canal Pointe Maintenance Corporation (Melissa Donnelly)

**Owner Address:** PO Box 594

**City:** Bethany Beach

**State:** DE

**Zip Code:** 19930

**Phone #:** \_\_\_\_\_

**E-mail:** MelissaGCP@comcast.net

**Agent/Attorney/Engineer Information**

**Agent/Attorney/Engineer Name:** Davis, Bowen & Friedel, Inc. (Ring W. Lardner, P.E.)

**Agent/Attorney/Engineer Address:** 1 Park Avenue

**City:** Milford

**State:** DE

**Zip Code:** 19963

**Phone #:** (302) 424-1441

**E-mail:** rwf@dbfinc.com



# Check List for Sussex County Planning & Zoning Applications

The following shall be submitted with the application

- Completed Application**
- Provide eight (8) copies of the Site Plan or Survey of the property**
  - Survey shall show the location of existing or proposed building(s), building setbacks, parking area, proposed entrance location, etc.
  - Provide a PDF of Plans (may be e-mailed to a staff member)
  - Deed or Legal description
- Provide Fee \$500.00**
- Optional - Additional information for the Commission/Council to consider** (ex. architectural elevations, photos, exhibit books, etc.) If provided submit 8 copies and they shall be submitted a minimum of ten (10) days prior to the Planning Commission meeting.
- Please be aware that Public Notice will be sent to property owners within 200 feet of the subject site and County staff will come out to the subject site, take photos and place a sign on the site stating the date and time of the Public Hearings for the application.**
- DeIDOT Service Level Evaluation Request Response**
- PLUS Response Letter** (if required)

The undersigned hereby certifies that the forms, exhibits, and statements contained in any papers or plans submitted as a part of this application are true and correct.

I also certify that I or an agent on my behalf shall attend all public hearing before the Planning and Zoning Commission and the Sussex County Council and any other hearing necessary for this application and that I will answer any questions to the best of my ability to respond to the present and future needs, the health, safety, morals, convenience, order, prosperity, and general welfare of the inhabitants of Sussex County, Delaware.

Signature of Applicant/Agent/Attorney



Date: 7/9/20

Signature of Owner



Date: 7/9/20

For office use only:

Date Submitted: \_\_\_\_\_ Fee: \$500.00 Check #: \_\_\_\_\_  
Staff accepting application: \_\_\_\_\_ Application & Case #: \_\_\_\_\_  
Location of property: \_\_\_\_\_

Subdivision: \_\_\_\_\_  
Date of PC Hearing: \_\_\_\_\_ Recommendation of PC Commission: \_\_\_\_\_  
Date of CC Hearing: \_\_\_\_\_ Decision of CC: \_\_\_\_\_

REPLY TO  
ATTENTION OF

**DEPARTMENT OF THE ARMY**  
PHILADELPHIA DISTRICT CORPS OF ENGINEERS  
WANAMAKER BUILDING, 100 PENN SQUARE EAST  
PHILADELPHIA, PENNSYLVANIA 19107-3390

OCT 02 2017

Regulatory Branch  
Applications Section I

SUBJECT: CENAP-OP-R-2017-537-85 (LOP)  
DDNREC #:  
Lat./Long.: 38.72540°N/-75.08925°W

Evelyn M. Maurmeyer, Ph.D.  
Coastal & Estuarine Research, Incorporated  
Marine Studies Complex  
Post Office Box 674  
Lewes, Delaware 19958

Dear Dr. Evelyn Maurmeyer:

This is in regard to your application on behalf of The Grande at Canal Pointe Maintenance Corporation for a Department of the Army permit dated July 7, 2017, under provision of Section 10 of the Rivers and Harbors Act of March 3, 1899. The Grande at Canal Pointe Corporation is authorized by the Secretary of the Army to install an 8' x 30' floating dock, a 10' x 6' floating pier, a 12' x 3' gangway and an 18' x 6' fixed pier in The Grande at Canal Pointe community, Tax Map Parcel Number 3-34-13.00-1745.00 on the Lewes and Rehoboth Canal in Rehoboth Beach, Sussex County, Delaware. This activity shall be conducted in accordance with the enclosed plans (Enclosure 1) and subject to the enclosed conditions (Enclosure 2). The stated purpose of this project is to provide a kayak/canoe launching facility for the residents in The Grande at Canal Pointe.

Carefully review all the terms and conditions of the Department of the Army permit and understand them fully. Performing any work not specifically authorized by the permit or failing to comply with its conditions may subject you and/or your contractor to the enforcement provisions of our regulations. If a contractor performs the work for you, both you and the contractor are responsible for assuring the work is done in conformance with the conditions and limitations of this permit. Please be sure the person who will do the work has read and understands the conditions of the permit.

This letter contains a proffered letter of permission for your proposed project. If you object to this decision, you may request an administrative appeal under Corps regulations at 33 CFR 331. Enclosed you will find a combined Notification of Appeal Process (NAP) fact sheet and Request for Appeal (RFA) form (Enclosure 3). If you request to appeal this decision, you must submit a completed RFA form to the North Atlantic Division Office at the following address:



Mr. James W. Haggerty  
Regulatory Program Manager (CENAD-PD-OR)  
U.S. Army Corps of Engineers  
Fort Hamilton Military Community  
301 General Lee Avenue  
Brooklyn, New York 11252-6700

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR Part 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by **DEC 04 2017**

It is not necessary to submit an RFA form to the Division Office if you do not object to the determination in this letter. Enclosed is your notice of authorization, ENG FORM 4336 (Enclosure 4), which must be conspicuously displayed at the site of work. The issuance of this permit does not obviate you from your responsibility to obtain any other Federal, State or local approvals required by law for this work.

This office shall be notified of the commencement and completion of the permitted work. To assist you in meeting this requirement, enclosed is a Notification/Certification of Work Commencement Form (Enclosure 5) for you to fill out and return to us at least 10 days prior to the time you intend to begin work. Similar notification is required each time any maintenance work is to be done under this permit. In addition, the enclosed Notification/ Certification of Work Completion/Compliance (Enclosure 6) should be signed and returned to this office within 10 days after the permitted work is completed. Also enclosed is a pre-addressed postal card (Enclosure 7) soliciting your comments on the processing of your permit. Any comments, positive or otherwise, on the procedures, timeliness, fairness, etc., may be made on this card. You may forward your comment card along with the signed Notification/Certification of Work Commencement Form.

Additional information concerning this permit may be obtained by writing to Michael D. Yost at the above address, by email at michael.d.yost@usace.army.mil or calling (267) 240-5278.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

A handwritten signature in cursive script, appearing to read "Edward E. Bonner".

Edward E. Bonner  
Chief, Regulatory Branch  
for Kristen N. Dahle  
Lieutenant Colonel, Corps of Engineers  
District Commander

Enclosures



**PROPOSED COMMUNITY KAYAK/CANOE LAUNCH:**  
**8' X 6' RAMP; 18' X 6' FIXED WALKWAY/PIER; 12' X 3' GANGWAY;**  
**10' X 6' FLOATING PIER; AND 8' X 30' FLOATING DOCK.**

**IN:** Lewes and Rehoboth Canal  
**AT:** Community open space off of Gloucester Drive,  
 The Grande at Canal Pointe

Rehoboth Beach, Sussex County, DE 19971  
 (Tax Map Parcel #3-34-13.00-1745.00)

**APPLICANT:** GCPMC (Grande at Canal Pointe Maintenance Corp.)  
**DATE:** July 7, 2017

*LEWES AND REHOBOTH CANAL*

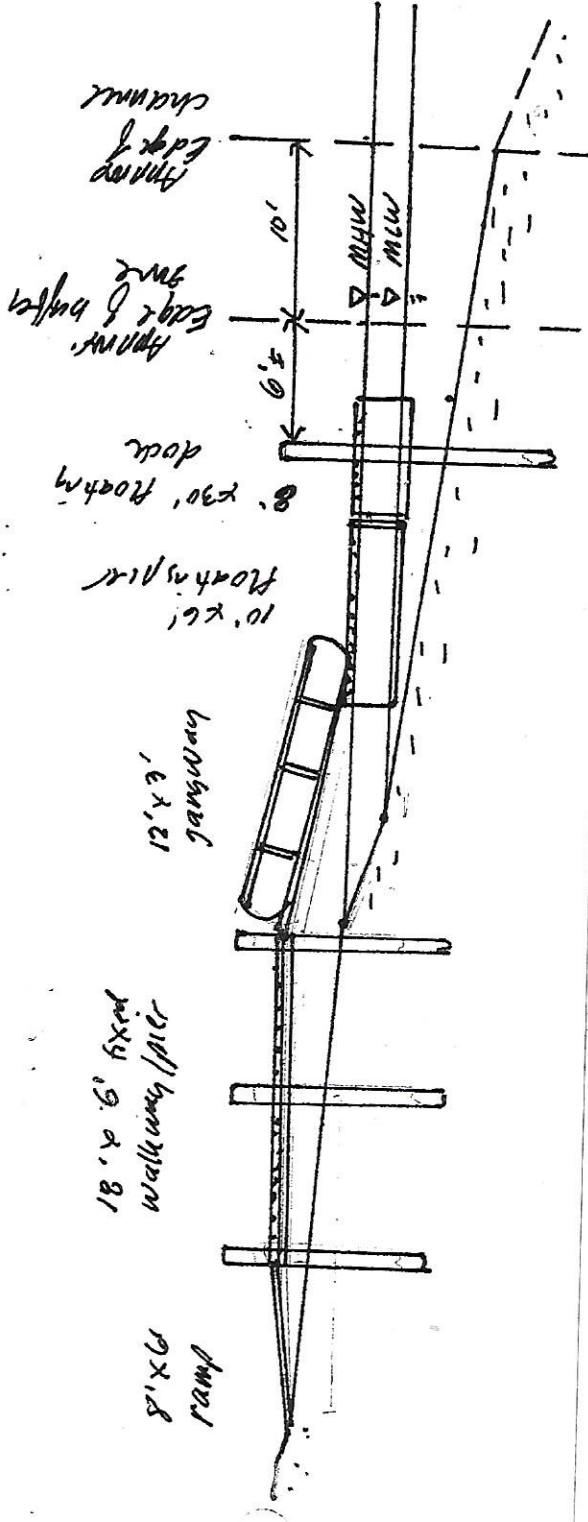


Figure 9. Cross-section of proposed project (for permit application purposes only).

CONDITIONS FOR  
DEPARTMENT OF THE ARMY PERMITS

GENERAL CONDITIONS

1. The time limit for completing the work authorized ends on December 31, 2020. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided on page 3 of this document and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

SPECIAL CONDITIONS

1. All work performed in association with the above noted project shall be conducted in accordance with the project plan prepared by Precision Marine Construction Incorporated, dated June 8, 2017, entitled: *PROPOSED COMMUNITY KAYAK DOCK~GRANDE AT CANAL POINT~41349 GLAUCESTER DR.~REHOBOTH BEACH, DE 19971*, Figure 8 and the plan prepared by Coastal & Estuarine Research, Incorporated, dated July 7, 2017, entitled: *PROPOSED COMMUNITY KAYAK/CANOE LAUNCH:~8' X 6' RAMP; 18' X 6' FIXED WALKWAY/PIER; 12' X 3' GANGWAY;~ 10' X 6' FLOATING PIER; AND 8' X 30' FLOATING DOCK*, Figure 9.
2. Construction activities shall not result in the disturbance or alteration of greater than 0.007 acre of waters of the United States.
3. Any deviation in construction methodology or project design from that shown on the above noted drawings must be approved by this office, in writing, prior to performance of the work. All

modifications to the above noted project plans shall be approved, in writing, by this office. No work shall be performed prior to written approval of this office.

4. This office shall be notified at least 10 days prior to the commencement of authorized work by completing and signing the enclosed *Notification/ Certification of Work Commencement Form* (Enclosure 5). This office shall also be notified within 10 days of the completion of the authorized work by completing and signing the enclosed *Notification/Certification of Work Completion/Compliance Form* (Enclosure 6). All notifications required by this condition shall be in writing and shall be transmitted to this office by registered mail. Oral notifications are not acceptable. Similar notification is required each time maintenance work is to be done under the terms of this Corps of Engineers permit.

5. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

6. Representatives of the U.S. Army Corps of Engineers shall be permitted to inspect the project during its phase of construction, and to collect any samples, or to conduct any tests deemed necessary.

7. The permittee is responsible for ensuring that the contractor and/or workers executing the activity(s) authorized by this permit have knowledge of the terms and conditions of the authorization and that a copy of the permit document is at the project site throughout the period the work is underway.

8. The Special Conditions imposed by the Delaware Department of Natural Resources and Environmental Control (DDNREC) on your DDNREC Section 401 WQC and/or DDNREC CZM concurrence shall also be conditions to this Department of the Army permit.

9. Prior to construction, the permittee shall obtain a Real Estate instrument from the Baltimore District, U.S. Army Corps of Engineers, ATTN: CENAB-RE-C, P.O. Box 1715, Baltimore, Maryland (410) 962-4649. All work shall be performed in accordance with the terms and conditions of the Real Estate instrument.

10. Boats moored to the authorized structure shall not encroach or extend into the buffer of the Federal navigation channel as depicted on the approved plans.

11. If in the opinion of the District Commander or his authorized representative, any portion of the dock or boat moored thereto interfere at any time with Federal dredging operations or general navigation, the permittee shall at his own expense take any and all steps to eliminate such interference for whatever duration is deemed necessary.

12. This permit does not authorize any dredging activities.

13. This permit does not authorize any wetland impacts.
14. This permit does not authorize any discharges of dredged or fill material into waters of the United States.
15. The mechanical equipment used to execute the work authorized shall be operated in such a way as to minimize turbidity that could degrade water quality and adversely affect aquatic plant and animal life.
16. The disposal of trees, brush and other debris in any stream corridor, wetland or surface water is prohibited.
17. This permit does not obviate the permittee from obtaining any State or local assent required by law for the activity authorized.

#### FURTHER INFORMATION

1. Congressional Authorities. You have been authorized to undertake the activity described above pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
2. Limits of the Authorization.
  - a. This permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.
  - b. This permit does not grant any property rights or exclusive privileges.
  - c. This permit does not authorize any injury to the property or rights of others.
  - d. This permit does not authorize interference with any existing or proposed Federal project.
3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:
  - a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
  - b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
  - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
  - d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data. The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See Item 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision. Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General Condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

7. Transference. When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

\_\_\_\_\_  
(Transferee)

\_\_\_\_\_  
(Date)





This notice of authorization must be conspicuously displayed at the site of work.

United States Army Corps of Engineers

OCT 02 2017

A permit to install an 8'x30' floating dock, a 10'x6' floating pier, a 12'x3' gangway and an 18'x6' fixed pier

at The Grande at Canal Pointe Community, Sussex County Delaware

has been issued to Evelyn M. Maurmeyer on OCT 02 2017

Address of Permittee Post Office Box 674, Lewes, Delaware 19958

Permit Number

CENAP-OP-R-2017-0537-85

Edward E. Bonner  
Chief, Regulatory Branch

**District Commander**

for: Kristen N. Dahle  
Lieutenant Colonel, US Army  
District Commander

(Proponent: DAEN-CWO)

NOTIFICATION/CERTIFICATION OF WORK COMMENCEMENT FORM

Permit Number: CENAP-OP-R-2017-537-85 (LOP)  
State Permit #:  
Name of Permittee: Grande at Canal Pointe Maintenance Corporation  
Project Name: Grande at Canal Pointe Dock SX  
Waterway: Lewes and Rehoboth Canal  
County: Sussex State: Delaware  
Compensation/Mitigation Work Required: Yes  No

TO: U.S. Army Corps of Engineers, Philadelphia District  
Wanamaker Building - 100 Penn Square East  
Philadelphia, Pennsylvania 19107-3390  
Attention: CENAP-OP-R

I have received authorization to install an 8' x 30' floating dock, a 10' x 6' floating pier, a 12' x 3' gangway and an 18' x 6' fixed pier in The Grande at Canal Pointe community, Tax Map Parcel Number 3-34-13.00-1745.00 on the Lewes and Rehoboth Canal in Rehoboth Beach, Sussex County, Delaware.

The work will be performed by:

Name of Person or Firm \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

I hereby certify that I have reviewed the approved plans, have read the terms and conditions of the above referenced permit, and shall perform the authorized work in strict accordance with the permit document. The authorized work will begin on or about \_\_\_\_\_ and should be completed on or about \_\_\_\_\_.

Please note that the permitted activity is subject to compliance inspections by the Army Corps of Engineers. If you fail to return this notification form or fail to comply with the terms or conditions of the permit, you are subject to permit suspension, modification, revocation, and/or penalties.

\_\_\_\_\_  
Permittee (Signature and Date)

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Contractor (Signature and Date)

\_\_\_\_\_  
Telephone Number

NOTE: This form shall be completed/signed and returned to the Philadelphia District Office a minimum of 10 days prior to commencing work.

NOTIFICATION/CERTIFICATION OF WORK COMPLETION/COMPLIANCE FORM

Permit Number: CENAP-OP-R-2017-537-85 (LOP)  
State Permit #:  
Name of Permittee: Grande at Canal Pointe Maintenance Corporation  
Name of Contractor:  
Project Name: Grande at Canal Pointe Dock SX  
County: Sussex State: Delaware  
Waterway: Lewes and Rehoboth Canal

Within 10 days of completion of the activity authorized by this permit, please sign this certification and return it to the following address:

U.S. Army Corps of Engineers, Philadelphia District  
Wanamaker Building - 100 Penn Square East  
Philadelphia, Pennsylvania 19107-3390  
Attention: CENAP-OP-R

Please note that the permitted activity is subject to a compliance inspection by an Army Corps of Engineers representative. If you fail to return this notification form or fail to perform work in compliance with the permit, you are subject to administrative, civil and/or criminal penalties. Further, the subject permit may be suspended or revoked.

The authorized work was commenced on \_\_\_\_\_.

The authorized work was completed on \_\_\_\_\_.

I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and conditions of the above noted permit.

\_\_\_\_\_  
Signature of Contractor

\_\_\_\_\_  
Signature of Permittee

Address: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_  
Telephone Number: \_\_\_\_\_

\_\_\_\_\_  
Telephone Number: \_\_\_\_\_

## Nick Torrance

---

**From:** Brian Nafzinger <brian\_nafzinger@comcast.net>  
**Sent:** Tuesday, April 13, 2021 9:54 AM  
**To:** Planning and Zoning  
**Subject:** Canal Pointe Dock Proposal

**Categories:** Nick

CAUTION: This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Hello - I was provided this email address for sharing comments on the proposed dock at Canal Pointe. I am unable to attend the public hearing, but as a resident of Canal Pointe I would like to register my strong support of this project.

Thank you

Sent from my iPhone

**SUPPORT EXHIBIT**

## Nick Torrance

---

**From:** Morgen Busch <morgen74@hotmail.com>  
**Sent:** Tuesday, April 13, 2021 6:11 PM  
**To:** Planning and Zoning  
**Subject:** C/Z 1926-zoning change in Canal Pointe

CAUTION: This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Please forward this email to Jamie Whitehouse.

My name is Morgen Busch. My husband and I are owners in Grand at Canal Pointe and we are in full support of the zoning change proposed to remove language on the master plan that prohibits water access. Thank you for your consideration and please note our full support of this change.

Best,

Morgen John Busch

**SUPPORT EXHIBIT**

## Nick Torrance

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**From:** Chris M. DeClark <cmfmep@comcast.net>  
**Sent:** Monday, April 5, 2021 6:18 PM  
**To:** Planning and Zoning  
**Subject:** C/Z 1926 - CP Townhomes, LLC (Canal Point RPC)

**Categories:** Nick

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Dear Planning and Zoning Commission and County Council,  
We are not able to attend the public hearings scheduled for April 22, 2021 and June 15, 2021 regarding the above mentioned subject matter, but would like to voice our opinion via this email.

We, the owners and residents of 41279 Gloucester Drive, Rehoboth Beach, De 19971, support amending the conditions of approval of CZ 1538 (ordinance 1700) in relation to piers, docks, boat ramps and other water related recreational facilities.

If you need additional information from us, you may contact us using one of the following means:  
302-249-8477  
[cmfdldc@gmail.com](mailto:cmfdldc@gmail.com)

Sincerely,  
Chris and David DeClark

**SUPPORT EXHIBIT**

## Nick Torrance

---

**From:** lgkessler@aol.com  
**Sent:** Monday, April 12, 2021 8:26 PM  
**To:** Nick Torrance  
**Subject:** Re: C/Z 1926 - CP Townhomes, LLC (Canal Point RPC)

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

How do I go on record for not completely striking "Condition 15"?

I am not opposed to a kayak launch from a common area to access a public waterway as long as it is for the provision of the general public and is not limited to the HOA.

Please note that there are no public kayaking access points to this area that I am aware of so perhaps this could be beneficial to the general public if limited to kayaking and canoes only.

Thank you so much.

Lisa Kemp  
17 Richardson Way  
Canal Corkran

301-473-2256

-----Original Message-----

From: Nick Torrance <nicholas.torrance@sussexcountyde.gov>  
To: lgkessler@aol.com <lgkessler@aol.com>  
Sent: Mon, Apr 12, 2021 9:18 am  
Subject: RE: C/Z 1926 - CP Townhomes, LLC (Canal Point RPC)

Good Morning Ms. Kemp,

I have been working with the HOA of Grand at Canal Pointe for about a year on this. Their stated purpose of this application is to completely strike "Condition 15" from the Conditions of Approval from Ordinance No. 1700. "Condition 15" states "No piers, docks, boat ramps, or other water-related recreation facilities shall be permitted."

From my understanding, they are trying to plan a kayak launch from a common area on the northeast side of the property. That is what they have discussed with me about their plans. Now striking the condition completely gives them the flexibility to do other things as well. They have not stated that is the choice, nor have I seen any plans of such but the way this application was written, was to strike that condition and not seek an amendment to the condition to allow one launch site if that makes sense.

As per the use of this by the public, this will have to be controlled by the HOA of Canal Point. They would likely place something in their restrictive covenants that prohibit the use to the general public. However, I am not aware of how they are planning on handling this.

Please let me know if you have any questions.

Nick Torrance  
Planner I  
Department of Planning and Zoning

## Jamie Whitehouse

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**From:** Thomas Roth <noreply@forms.email>  
**Sent:** Monday, April 12, 2021 1:56 PM  
**To:** Jamie Whitehouse  
**Subject:** Contact Form: Public Hearing for C/Z 1926

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Name: Thomas Roth  
Email: townmgr@henlopenacres.com  
Phone: 3022276411

Subject: Public Hearing for C/Z 1926

Message: Mr. Whitehouse, I am writing to in regards to the hearing for C/Z 1926 CP Townhomes. In the advertisement the listed parcel number appears to be incorrect. It reads 334-13.00-334.00 1448 through 1750. The parcel should be 334-13.00-1745.00.

Although the Town of Henlopen Acres has no standing in this matter, numerous property owners have concerns. Are there drawings available to review, prior to this hearing.

Thanks, Tom



**Nick Torrance**

---

**From:** sunseeher9@aol.com  
**Sent:** Tuesday, April 13, 2021 10:07 AM  
**To:** Planning and Zoning  
**Subject:** C/Z 1926

**Categories:** Nick

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

I am worried about the zoning change to allow for a pier to be built in the newly created Canal Pointe Park. My concerns are related to the cost of upkeep, liability and enforcement of HOA established rules.

Will this dock be for public use or just limited to our community? Will small motorized craft be allowed? Should we be checking with our neighbors across the water for their input?

We voted on making this change last year before the Pandemic and so much has changed in our community since then.

There are so many launching docks in Rehoboth and Lewes already, putting another one in a private community just seems absurd.

Thank you for your time  
Constance Montalbano

## Ring Lardner

---

**From:** Melissa Donnelly <MelissaGCP@comcast.net>  
**Sent:** Tuesday, January 14, 2020 10:17 PM  
**To:** Todd Moyer  
**Subject:** Final Vote on Special Ballot

Hi Todd,

We have the final results of the Special Ballot required to Finalize the Landscape Site Plans filed with Sussex County by the Developer in 2004. Voting officially ended on January 10, 2020. A total of 180 owners voted and based on a total 288 total homes, the majority threshold of 51% (147 owners) was achieved on all three ballot questions. Here are the detailed results for each question:

Eliminate from the landscape site plan the planting of new trees around the storm water management pond.

Approve - 151

Oppose – 29

Eliminate from the landscapes site plan the trail off the parking lot on Gloucester between lots 45 and 46.

Approve - 162

Oppose – 18

Removal of Ordinance 1700 Conditions, item number 15, from the Record Plan which states “No piers, docks, boat ramps, or other water related recreational facilities shall be permitted.”

Approve - 163

Oppose – 17

Could you please let me know your progress on updating the Site Plans on file with Sussex County Planning and Zoning. Also, now that we have the vote results in, can we move forward and process the payment for the \$17K reimbursement to GCP Maintenance Corp. related to the first ballot question involving removing the trees around the storm water management pond.

Thank you,  
Melissa Donnelly  
Board President of the GCP Maintenance Corporation

## Request to Remove Condition #15 from Ordinance 1700

This request is filed by the Board of Directors of GCP Maintenance Corp, the Home Owner's Association ("HOA"), which represents the single family homeowners of The Grande at Canal Pointe ("Canal Pointe"), located in Rehoboth Beach. On behalf of a majority of homeowners, the HOA hereby supports the request filed by CP Townhomes LLC (Canal Point RPC) ("Developer") [Case No. C/Z 1926] to amend Ordinance 1700 to remove condition #15, ("Condition 15"), which states that " –No piers, docks, boat ramps, or other water related recreational facilities shall be permitted."

After discussions with the Developer and a search of all documents filed with Sussex County Planning and Zoning ("P&Z")pertaining to Canal Pointe, the HOA has found no explanation for why Condition 15 was added to Ordinance 1700.

In 2020 a majority of the homeowners at Canal Pointe voted to request removal of Condition 15, with 90% of those submitting a ballot voting to request removal of Condition 15. Voting results are included in this package submitted to the commission.



The Grande at Canal Pointe is located on the west side of the Rehoboth / Lewes Canal, North of Canal Corkran, and across from Henlopen Acres. Numerous docks line both sides of the Lewes and Rehoboth Canal (“Canal”). The light yellow circle at the upper right corner of the area outlined in red is the planned location for a dock and launch facility.



In the back of the Canal Pointe community is a private common area known as Canal Park, owned by the HOA, which abuts a marsh area and the Canal. Off-street parking is available.



The concrete walkway depicted above was constructed when development of the community first started, and leads to the Canal in the area of Canal Park designated to be a future launch (if approved).

In 2017, after control of the HOA was turned over from the Developer to the residents of Canal Pointe, the HOA began the process of planning for a dock and acquiring the necessary permits from the Delaware Department of Natural Resources and Environmental Control (DNREC) and the Army Corps of Engineers (“Army Corps”). At the time, the HOA was unaware of Condition 15. DNREC and the Army Corps both issued permits to install the dock. Copies of the permits are included in this package submitted to the commission. Those permits expired December 31, 2020, because once the HOA became aware of Condition 15 for the first time in 2018, in the context of other activities related to HOA/Developer turnover, all efforts to fund and build a dock were halted. The HOA had hoped to have a hearing on this issue before the permits expired, but COVID-19 intervened.



If approved, the HOA plans to install one recreational dock/pier for the community to launch small, non-motorized watercraft, such as kayaks, canoes and paddle boards and for fishing. The HOA has no intent, and does not herein seek, to use the dock/pier for launching or parking of motorized watercraft. Removal of Condition 15 would not permit individual homeowners of Canal Pointe to construct a dock/pier, as no individual homeowner owns land adjacent to the canal – all such land in Canal Pointe bordering the canal is the property of the HOA, and designated as common area for the community.

The HOA is not aware of any other communities having county restrictions against building docks on the canal. Docks line both sides of the canal.



The lack of a dock, pier, or other facility also creates a safety issue for Canal Pointe residents. The photograph above shows the bank of the Canal, where residents so inclined might otherwise launch kayaks, canoes and paddle boards into the canal, absent a proper facility to do so. The land in this location is muddy and unstable, especially at low tide. The HOA believes that providing safe and secure access to the Canal for its homeowners will not only be safer for its residents, but will also help preserve at least this portion of the bank of the Canal from further erosion from the wake created by motorized watercraft that already traverse the canal regularly.

The HOA currently lacks the necessary DNREC and Army Corps permits to construct the dock, because those permits expired after the HOA became aware of the need to first remove Condition 15. The HOA respectfully requests the removal of Condition 15 from Ordinance 1700 as a first step to begin the process again of seeking to enhance this amenity for the Sussex County homeowners we represent.



Attachments:

- Ordinance 1700,
- Community vote results.
- DENREC building permit.
- Army Corp of Engineers permit with dock plans.

ORDINANCE NO. 1700

With Conditions

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR. MEDIUM DENSITY RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT-RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 180.60 ACRES, MORE OR LESS

WHEREAS, on the 27th day of August, 2003, a zoning application, denominated Change of Zone No. 1538, was filed on behalf of Rebay, LLC; and

WHEREAS, on the 6th day of May 2004, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 10th day of June 2004 said Planning and Zoning Commission recommended that Change of Zone No. 1538 be approved with conditions; and

WHEREAS, on the 25th day of May 2004, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County has determined, based on the findings of facts, that said change of zone is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County;

NOW, THEREFORE,

THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article II, Subsection 115-7, Code of Sussex County, be amended by deleting from the Comprehensive Zoning Map of Sussex County the zoning

classification of [MR Medium Density Residential District] and adding in Heu thereof the designation of MR Medium Density Residential District-Residential Planned Community as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying southeast of Route 271 (Holland Glade Road), 3,150 feet northeast of Route One, and being more particularly described in legal description provided by Davis, Bowen & Friedel, Inc., said parcel containing 180.60 acres, more or less.

This Ordinance shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.

This Ordinance was adopted subject to the following conditions:

1. The maximum number of residential units shall not exceed 617 units as follows: 310 Single Family Lots and 307 Multi-Family or Townhouse Units.
1. There shall not be any multi-family or townhouse units within 300 feet of the Henlopen Keys development
2. The reference to "County Service Area" must be deleted from the Final Site Plan.
3. Site plan review shall be required for each phase of development
4. All entrance, intersection, interconnection, roadway and multi-modal improvements required by DeIDOT shall be completed by the applicant in accordance with DeIDOT's requirements, or in accordance with any further modifications by DeIDOT.
5. Recreational facilities and amenities shall be constructed and open to use by residents of the development within two years of the issuance of the first building permit.
6. The development shall be served as part of the West Rehoboth Sanitary Sewer District in accordance with Sussex County Engineering Department specifications and regulations.
7. The MR-RPC shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable regulations.
8. Stormwater management and erosion and sediment control facilities shall be constructed in accordance with applicable State and County requirements. These facilities shall be operated in a manner that is consistent with Best Management Practices (BMPs).

9. The interior street design shall be in accordance with or exceed Sussex County street design requirements and/or specifications. Street design shall include sidewalks on both sides of the streets and street lighting.
10. The applicant shall submit as part of the site plan review a landscape plan showing the proposed tree and shrub landscape design.
11. Construction, site work, grading, and deliveries of construction materials, landscaping materials and 1111 on, off or to the property shall only occur from Monday through Saturday and only between the hours of 7:00 a.m. and 6:00 p.m.

13. The applicant shall cause to be formed a homeowners or condominium association to be responsible for the maintenance of the streets, roads, buffers, open spaces, stormwater management facilities and other common areas.

14. State wetlands shall not be included in any individual lots. Federal and State wetlands shall be maintained as non-disturbance areas, except where authorized by Federal or State permit.

15. No piers, docks, boat ramps, or other water related recreational facilities shall be permitted.

16. The proposed senior center, based on the testimony by the applicant and supporters of the project, shall be located on at least six acres of land and shall be on the west side of the connector road. It shall include parking in accordance with County requirements for a large-scale center such as the one proposed for a capacity of at least 500 people, as stated during the public hearing. This parking shall be shown on the final site plan.

17. There shall be no commercial uses in the project, including the area adjacent to Sandalwood, with the limited exception of a sales facility for the duration of the development of the project and located within the project east of the connector road and not adjacent to Sandalwood.

1. Only townhouse-design buildings or single-family units shall be located adjacent to the existing pond between this project and Canal Corkran.

2. Any residential uses between Sandalwood and the Connector Road, also known as Hebron Road, shall be limited to single family lots.

3. Addressing and street naming shall be reviewed and approved by the Sussex County Mapping and Addressing Division.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 1700 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 29TH DAY OF JUNE 2004.

ROBIN A. GRIFFI  
CLERK OF THE COUNCIL

A handwritten signature in black ink, appearing to read "Robin A. Griffi", is written over a horizontal line.

The County Council found that the change of zone was appropriate legislative action based on the following findings of fact:

1. The proposed rezoning was requested to allow a Residential Planned Community in a MR Medium Density Residential District on a parcel of land containing 180.60 acres lying southeast of Holland Glade Road and northeast of Route 1, north of Rehoboth Beach.
2. The majority of the site was previously zoned MR and under the present MR zoning would allow for the development of four single family dwelling units per acre.
3. As originally proposed, the RPC was to have six acres of commercial use with approximately 1 1/2 acres dedicated to the Rehoboth Beach Senior Center and the remainder dedicated to an area that would contain County service uses.
4. Approval of the project would benefit the area by the creation of a connector road that would connect Rehoboth Avenue Extended to Holland Glade Road and provide another means of public access to and from Rehoboth Beach.
5. Following the public hearings and during the period while the record remained open, the applicant modified its plan to eliminate the proposed commercial and County service area uses and to transfer the area formerly reserved for those purposes to the Rehoboth Beach Senior Center.
6. The applicant proposed to develop single family lots, townhouses and condominiums in a planned environment that would include active and passive recreational facilities.
7. The property is located in an area designated as a development district under the Comprehensive Land Use Plan Update.



8. The proposed RPC meets the purposes of the zoning ordinance in that it promotes orderly growth of the County in an area designated for development.
9. Sewer service will be provided as part of the County operated sanitary sewer district and adequate wastewater capacity is available for the project.
10. The development will contain a diversity of housing types and multi-modal transportation improvements and will promote the interconnection between this area and surrounding developments and the City of Rehoboth Beach.

11. With the conditions placed on the approval, the RPC designation is appropriate in that the purpose of an RPC is to encourage large scale development as a means of creating superior living environments and the use of design ingenuity while protecting existing and future uses.
12. The project will have a net density of 3.5 units per acre, which is consistent with the existing MR zoning of the majority of the property.
13. The Council found that the conditions placed on the project will protect the adjoining single family subdivisions known as the Sandalwood and Henlopen Keys developments.
14. The projects will be served by amenities located on-site, which include, but are not limited to, a swimming Pool and walking trails.
15. The applicant established by substantial evidence that the proposed use would not have an adverse impact on the character of the neighborhood, property values, traffic or the environment.
16. The Council found that DeIDOT and the Office of State Planning Coordination did not oppose the application, as approved by Council.
17. The change of zone is subject to twenty conditions, which will serve to minimize any potential impacts on the surrounding area.

**The Grande at Canal Pointe Maintenance Association  
2019 Special Ballot Regarding Modifications to the Canal Pointe Plans - 2004**

The Grande at Canal Pointe Maintenance Association (“HOA”) Board held a community vote on modifications to Grande at Canal Pointe Record and Landscape Site Plans originally filed with Sussex County by the Developer in 2004.

As of January 10, 2020, a total of (180) owners have voted either by paper or electronic ballot and the results are listed below.

Based on total number of homes of (288), the majority threshold of 51% or (147) owners has been achieved in all categories and questions.

1. Eliminate from the developer’s landscape site plan the planting of trees around the storm water management pond bounded by Worcester, Bridgewater, and Liverpool.
  - (151) Owners APPROVE the proposed modification to the Landscape Site Plan
  - (29) Owners OPPOSE the proposed modification to the Landscape Site Plan
  
2. Eliminate from the developer’s landscape site plan the trail off the parking lot on Gloucester between lots 45 and 46.
  - (162) APPROVE the proposed modification to the Landscape Site Plan
  - (18) OPPOSE the proposed modification to the Landscape Site Plan
  
3. Removal of Ordinance 1700 item number 15 which states “no piers, docks, boat ramps, or other water related recreational facilities shall be permitted.”
  - (163) APPROVE the proposed modification to the Landscape Site Plan
  - (17) OPPOSE the proposed modification to the Landscape Site Plan



STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES & ENVIRONMENTAL CONTROL  
OFFICE OF THE SECRETARY

DELAWARE COASTAL  
MANAGEMENT PROGRAM

100 W. WATER STREET, SUITE 7B  
DOVER, DELAWARE 19904

Phone: (302) 739-9283

Fax: (302) 739-2048

October 9, 2017

Evelyn M. Maurmeyer, Ph. D.  
Coastal & Estuarine Research, Inc.  
P.O. Box 674  
Lewes, DE 19958

***RE: Delaware Coastal Management Federal Consistency Certification  
The Grande at Canal Pointe Community Kayak/Canoe Launch (FC# 2017.0112)***

Dear Dr. Evelyn M. Maurmeyer,

The Delaware Coastal Management Program (DCMP) has received and reviewed your consistency determination for The Grande at Canal Pointe Community Kayak/Canoe Launch (FC# 2017.0112). The project includes the construction of a community kayak/canoe launching facility consisting of 8' x 6' ramp; 18' x 6' fixed walkway/pier, 12' x 3' gangway; 10' x 6' floating pier; and 8' x 30' floating dock in the Lewes and Rehoboth Canal on Gloucester Drive, The Grande at Canal Pointe, Rehoboth Beach, Sussex County, Delaware; to provide kayak/canoe launching facilities for residents of the community. Based upon our review and pursuant to National Oceanic & Atmospheric Administration regulations (15 CFR 930), this project is consistent with the policies of the DCMP.

If you have any questions please contact me or Nicole Rodi of my staff at (302) 739-9283.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kimberly B. Cole".

Kimberly B. Cole, Administrator  
Delaware Coastal Management Program

KC/nr

cc: File (FC 2017.0112)  
Matt Jones – DNREC Wetlands and Subaqueous Lands  
Mike Yost – USACE- Philadelphia District

## Nick Torrance

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**From:** Kent <Kent@AerialPhotographers.us>  
**Sent:** Sunday, April 18, 2021 6:42 PM  
**To:** Nick Torrance  
**Subject:** Ord 1700, Cond 15 Comment

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Hello Nick,

Here a comment to pass along.

Thanks,

April 2, 2021

Nicholas Torrance  
Sussex County – Planning & Zoning  
2 The Circle  
P.O. Box 417  
Georgetown DE, 19947  
nicholas.torrance@sussexcountype.gov

Mr. Torrance,

The Amenities Committee within Grande at Canal Pointe (GCP) consists of 15 homeowners that meet 10 times per year to provide a forum for community ideas and input focused on continued improvement of our common areas. Our collective Committee would like to express our support for the request to amend Ordinance 1700 to remove condition #15 – "No piers, docks, boat ramps, or other water related recreational facilities shall be permitted". We believe that the documentation provided to your team with this request represents a clear majority of our homeowners wants and needs for the continued improvement of our community.

Thank you for assisting our neighborhood in this matter.

Sincerely,

Jeff Topley, Committee Chairman  
37369 Oxford Court  
Rehoboth Beach, DE 19971

Rick Dressel  
41332 Gloucester Dr.

Mike Searson  
19549 Manchester Dr.

John Zingo, Board Liaison  
19465 Bridgewater

Kent Larson, Board Liaison  
37448 Liverpool Lane

Ellen Bonny Hughes  
41349 Gloucester Dr.

Judy McClafferty  
41226 Gloucester Dr.

Irene Paonessa  
41361 Gloucester Dr.

Catherine Perga  
37541 Worcester Dr.

Doug Hawkland  
37484 Liverpool Lane

Kathy Pizzadelli  
19480 Manchester Dr.

Christopher Shipp  
37452 Liverpool Lane

Robin Bedington  
41373 Gloucester Dr.

John Robinson  
29564 Manchester Dr.

Lenny Stumpf  
41263 Gloucester Dr.

# Town of Henlopen Acres

104 Tidewaters  
Henlopen Acres, Delaware 19971

Phone: 302-227-6411

Fax: 302-227-3978

April 21, 2021

VIA EMAIL TO: [Jamie.whitehouse@sussexcountyde.gov](mailto:Jamie.whitehouse@sussexcountyde.gov)  
[Annlepore@sussexcountyde.gov](mailto:Annlepore@sussexcountyde.gov)  
[Chase.phillips@sussexcountyde.gov](mailto:Chase.phillips@sussexcountyde.gov)

Sussex County Planning & Zoning Commission  
2 The Circle  
P.O. Box 417  
Georgetown, DE 19947

RE: Case No. C/Z 1926 - Zoning Amendment for Canal Pointe

To Whom It May Concern:

I serve as Mayor of the Town of Henlopen Acres, an incorporated municipality of 200 homes on 156 acres that borders the Lewes & Rehoboth Canal. Our community greatly values the protection of environmentally sensitive areas and the preservation of a tranquil environment for our residents.

The Town was not served with the Notice of Public Hearing scheduled to occur tomorrow, April 22, 2021 in the above-referenced matter and was only alerted to it by one of the affected residents. Since that time, we have endeavored to fully understand the request and to ensure that all our owners in the immediate vicinity were aware of the public hearing, which many were not.

The Commissioners of Henlopen Acres convened a special meeting on April 21, 2021 and voted to oppose the pending request for a Zoning Amendment by CP Townhomes LLC and the Canal Pointe Maintenance Corporation to remove Condition 15 from Ordinance 1700. The removal of Condition 15 would permit the Canal Pointe community to pursue a dock project that will impact our Town and will most significantly affect our residents along Tidewaters Road who are located across from the proposed dock site. We understand the proposed dock will be used by a minimum of 283 single-family homeowners and possibly up to 600 total homeowners if access is subsequently extended to the town house and condominium owners at Canal Pointe.

We respectfully wish to make the following statements to the Planning & Zoning Commission on the proposed Amendment request:

1. Original Rationale for Condition 15

As a threshold matter, we believe that the Planning & Zoning Commission should determine and make public the reason(s) the County included Condition 15 when the development was originally approved by the County in 2004. If the County ultimately decides to endorse and approve construction of this community dock through the removal of Condition 15, it should explain why that rationale no longer applies. We note that this fundamental issue was not addressed by the Applicant or in the Staff Analysis memo from the County Planning Office that was included in the packet of information for the hearing. If the rationale includes the protection of the environmentally sensitive area at issue, we note that the City of Rehoboth Beach is on the verge of opening a new public canal dock and kayak launch site that is very nearby and could be utilized by Canal Pointe residents. Use of the Rehoboth Beach dock will ensure that the environmentally sensitive area at issue here remains undisturbed.

2. Protection of Wetlands under Condition 14

We understand that during the subdivision approval process in 2004, the Department of Natural Resources and Environmental Control (DNREC) observed that “the project represents a major loss of forested wetlands” and urged that “buffers of 100’ or more from waterbodies and wetlands should be employed throughout the site for water quality and habitat benefits.” (Source: Letter from Office of State Planning to Project Manager dated January 10, 2004).

Our residents report seeing large swaths of trees and plantings abutting the wetlands being cut to establish the Park in which the dock is proposed to be built, and we believe the Planning Commission should ensure that all required buffers, whether by the State or County, are being respected to ensure protection of vital natural resources. It is noteworthy that Condition 14 of Ordinance 1700 provides that “Federal and State wetlands shall be maintained as non-disturbance areas, except where authorized by Federal or State permit.” The observations of our residents call into question whether Canal Pointe is currently in compliance with Condition 14. We believe removal of Condition 15 will almost certainly result in a lack of compliance with Condition 14.

3. Narrow Relief

While the Town’s position is that Condition 15 should remain in its entirety, if this proposal is ultimately approved by the Commission and County Council, we believe that Condition 15 should not be eliminated in its entirety but rather a narrow exception should be added that authorizes a small dock suitable for launching kayaks but otherwise leaves Condition 15 in place to preclude other water-related recreational facilities from being built at Canal Pointe. We believe that if any relief is granted (and we do not think it should be) such narrow relief is the only option to preserve and protect the sensitive wetlands area that surrounds the proposed dock site and the valuable wildlife habitat in the area which includes an eagle nesting area.

4. Impact on Neighbors

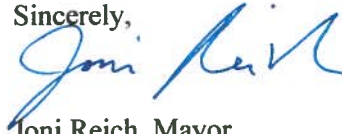
Further, if approved, we request that Canal Pointe establish operational restrictions, including hours of operation and permitted activities, to minimize the impact of noise on adjacent neighbors in the Acres. Because of the proximity of the Park that is located only 140 feet across the Canal, our residents are already being impacted by the gatherings of Canal Pointe residents a short distance away. This will be magnified many times more if the dock is permitted.

5. Owners' Correspondence

While the Town Commissioners have independent reasons to oppose the removal of Condition 15, as expressed in this correspondence, we acknowledge the correspondence provided to the Commission on behalf of several homeowners in the Acres by the Baird Mandalas Brockstedt firm, dated April 20, 2021. We share the concerns of the homeowners raised in that correspondence.

On behalf of the Commissioners and residents, thank you for your consideration,

Sincerely,

A handwritten signature in blue ink that reads "Joni Reich". The signature is written in a cursive style with a large initial "J" and "R".

Joni Reich, Mayor



VIA EMAIL TO: [Jamie.whitehouse@sussexcounty.de.gov](mailto:Jamie.whitehouse@sussexcounty.de.gov)  
[nicholas.torrance@sussexcountyde.gov](mailto:nicholas.torrance@sussexcountyde.gov)  
[chase.phillips@sussexcountyde.gov](mailto:chase.phillips@sussexcountyde.gov)

Sussex County Planning and Zoning Commission

2 The Circle

P.O. Box 417

Georgetown, DE 19947

RE Support of CZ 1926 – Zoning Amendment

Dear Commissioners:

I serve as the President of the Board of Grande at Canal Pointe Maintenance Corporation, the Home Owner's Association ("HOA"), which represents the single family homeowners of The Grande at Canal Pointe ("Canal Pointe"), located in Rehoboth Beach. Our community greatly values the protection of environmentally sensitive areas and the preservation of a tranquil environment for both our residents and the residents of communities adjacent to ours.

I am responding to some of the issues raised in letters opposing CZ 1926 from the Mayor of the Town of Henlopen Acres ("the Mayor's letter") and from Mr. Spence on behalf of several individual Acres households ("the Spence letter"), to provide some perspective on Canal Pointe's intent and commitment to ensuring that our community members enjoy Canal Park, and possible access to the canal, in a responsible and respectful way.

Both the Spence letter and the Mayor's letter express concern about the environment impact of Canal Pointe installing a dock. Ironically, most if not all of the homeowners bordering the canal represented by Mr. Spence have individual docks, and the community has a 58-slip marina welcome to motorized vessels. The documentation requesting removal of Condition #15 from Ordinance 1700 expressly states that Canal Pointe's facility will **not** be open to motorized vessels. Canal Pointe agrees that motorized vessels, such as those in abundance on the other side of the canal, create a substantial environmental impact, which is why Canal Pointe does not seek to permit them.

Notably, the rules governing the Acres marina includes a statement that boats "showing more than normal leakage" must be removed or repaired, thereby admitting that boats having a certain amount of expected "normal leakage."<sup>1</sup> Additionally, motorboats create wake that causes environmental damage to the shoreline and have propellers that stir up silt and endanger underwater marine life. None of these risks will be posed by Canal Pointe's proposed facility, which will not be open to motorized vessels

at all. Kayaks, canoes, and paddleboards have no oil, gas, or other fluids to leak. The installation of a dock will not require any disruption of the wetlands that adjoin Canal Park. So, in the context of the overall environmental impact, the incremental adverse environmental impact posed by a limited-use dock on the Canal Park land is negligible and immaterial, in view of watercraft moored to Acres properties or passing through the relevant section of the canal between the Acres and Canal Point already.

The Spence letter posits that removing Condition 15 creates an “invitation for all manner of recreational activities . . . and the eventual destruction of wildlife [eagles!] ... aquatic habitat, and flora and fauna in and near the canal and the wetlands adjacent thereto.” Not so. Canal Pointe’s original proposal was to install a dock suitable kayaking, canoeing, paddle boarding, and fishing. All of these activities attract participants who cherish the outdoors and want to experience its beauty – not destroy it. Docks provide more aquatic habitat for flora and fauna, not less, as anyone experienced in fishing knows well. Having a dock will minimize impact to the bottom and bank of the canal that might otherwise occur from participants launching directly from the bank, and a dock should mitigate damage to the bank from wake caused by motorboats already traversing the canal.

The Spence letter also suggests that the dock as originally proposed was “much more” than a kayak launch. But, much of the structure as described is needed to provide access to a floating dock in deep enough water to launch a canoe/kayak in a tidal area, a necessity well understood by those Acres homeowners having long docks extending above the wetlands to reach water deep enough for their motorized boats on their side of the canal.

Both the Spence letter and the Mayor’s letter offer the new kayak launch downtown as an alternative “option” for Canal Pointe community members to a dock on HOA land, but the distance between the town dock and the first property in the Acres abutting the canal is less than 1000 ft., and the individuals represented by Mr. Spence lie only a few thousand feet from the town dock. The Canal Park dock, limited to GCP residents, poses no greater “adverse impact on the character of the neighborhood, property values, traffic or the environment” than the town dock, open to literally anyone, and close enough to the Acres that its users will still wind up in the same waterway adjoining Acres properties. The Spence letter points to the Canal’s alleged lack of “width and traffic capacity to have a kayak or paddle board *party area*” (whatever that means) in the Canal Park location “while also dealing with substantial motorized boat traffic that traverses the area, especially in the summer months.” But, if anything, the location of Canal Park is far better situated in width and traffic capacity than the town dock adjacent the Route 1A bridge, and because Canal Park is limited to the enjoyment of Canal Pointe residents, it will not have nearly the traffic of the town dock. In fact, a Canal Pointe facility may help alleviate a small amount of traffic from Canal Pointe that might otherwise use the town dock, which would also add to vehicle traffic and parking demands in town. Having more paddlers in general, may encourage motorboats to maintain a lower speed through the portions of the canal adjoining the Acres. Boaters are far more courteous to kayakers than to shorelines and docked motorboats. In sum, allowing Canal Pointe paddlers to use a launch on its own land in its own community is likely to have the least adverse impact on the least number of county residents, and may actually have a net positive impact, when considered as a whole.

The Spence letter states that a Canal Pointe community dock will become a “party area” with “hundreds of people ... coming to spend a day rowing and swimming around the canal.” First, some members of the

Canal Pointe community will not use a dock at all, and those that do enjoy it, will not all use it at the same time. There will literally never be “hundreds of people” in the Canal. And, Canal Pointe property owners adjoin the Canal Park area, too. The HOA will certainly have hours of operation, rules, and regulations to minimize the impact of a dock on adjacent neighbors in the Acres and in the Canal Pointe community. Canal Pointe has two swimming pools that serve the community, so swimming in the canal is an unlikely attraction. In sum, Canal Pointe has its own interest in fostering safety and minimizing noise that the average user of the town dock does not have. The Acres is far less likely to be impacted by a Canal Pointe dock than the town dock it mentions as an alternative.

The Mayor’s letter indicates that residents are “already being impacted by the gatherings of Canal Pointe residents,” without providing details. Canal Park is monitored by video surveillance. The HOA is aware of no large “gatherings,” and as noted above, minimizing impact is as important to the Canal Pointe HOA and the adjoining landowners it represents, as it is to the Acres. Motorized party boats with loud music and revelers motoring down the canal nightly in the summer pose a far greater nuisance and impact than the average paddlers and fishing enthusiasts, who are typically there to enjoy nature, in daylight, and silence. The Acres Marina appears to have no set hours of operation, but it does have a noise ordinance. Canal Park is only open dusk to dawn now, and a launch would not change that. Canal Pointe has and will continue to have rules and regulations intended to minimize noise.

In sum, Canal Pointe intends to administer the Canal Park area as good neighbors to the Acres and to its own residents. Environmental and other adverse impacts from a dock at Canal Park are expected to be incrementally immaterial relative to the current impact from the Acres and the town dock. Installing a dock in Canal Park is likely to offer the least impact to the least number of county residents overall as compared to Canal Pointe residents using the town dock. Understandably, residents of the Acres have a “not in my back yard” reaction to this proposed change, but their allegations of resulting adverse environmental, noise, and nuisance impacts do not hold up to close scrutiny. If the ordinance is amended to lift the restriction, Canal Pointe is dedicated to working with all interested stakeholders, including those within its community and without, to ensure that any facility placed in Canal Park has minimal adverse impact on the environment and its neighbors.

Respectfully yours,

Melissa Donnelly

President, Grande at Canal Pointe Maintenance Corporation

---

<sup>i</sup> <https://henlopenacres.delaware.gov/files/2020/11/2021-Fee-schedule-and-contract.pdf>, p. 5, paragraph 7.

## Nick Torrance

---

**From:** Mark <mdmurphy@bentcom.net>  
**Sent:** Thursday, April 22, 2021 5:37 PM  
**To:** Planning and Zoning  
**Subject:** Boat launch ramp Grand Canal Pointe

**Categories:** Nick

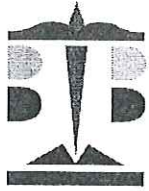
**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

I am highly in favor of a boat launch ramp for Grand Canal Pointe. Looking across the canal, it seems as if each home has a dock. Grand Canal Pointe is only asking for one. Personally, my family would enjoy kayaking on the canal. Please consider our request for recreation purposes. Thank you.

Sincerely,

Mark and Alice Murphy  
37415 Liverpool Lane  
Rehoboth Beach, DE.

Sent from Mail for Windows 10



BAIRD  
MANDALAS  
BROCKSTEDT LLC

**FILE COPY**

Opposition  
Exhibit

Received at Public Hearing  
04.22.2021

Stephen W. Spence  
[sws@bmbde.com](mailto:sws@bmbde.com)  
(302)645-2262

April 20, 2021

**VIA EMAIL**

Planning & Zoning Department  
Attn: Planning & Zoning Commission  
2 The Circle  
PO Box 417  
Georgetown, DE 19947  
[jamie.whitehouse@sussexcountyde.gov](mailto:jamie.whitehouse@sussexcountyde.gov)  
[annlepore@sussexcountyde.gov](mailto:annlepore@sussexcountyde.gov)  
[chase.phillips@sussexcountyde.gov](mailto:chase.phillips@sussexcountyde.gov)

**RE: Opposition to C/Z 1926 CP Townhomes, LLC (Canal Point RPC)  
Our File No.: 18388-003**

Dear Commissioners:

We represent Bob Reed, Martin and Eileen Clark, Connie Malmberg, Mike Stakias, Joseph Coates, Payam Hariri, Barry Rosenthal, Sally Fogarty, and Jan O'Malley all residents of Henlopen Acres (collectively the "Property Owners").<sup>1</sup> These Property Owners oppose C/Z 1926 to remove one of the conditions of approval of C/Z 1538 and Ordinance 1700 which prohibits piers, docks, boat ramps and other water related recreational facilities in this development.

Ordinance 1700 (the "Ordinance") amended the Comprehensive Zoning Map of Sussex County from a MR Medium Residential District to a MR-RPC Medium Density Residential District-Residential Planned Community. On May 25, 2004, the County Council voted to approve C/Z 1538 subject to twenty (20) Conditions finding consistency with the Comprehensive Development Plan and promotion of the "health, safety, morals, convenience, order prosperity and welfare of the present and future inhabitants of Sussex County."

The County Council found that the change of zone was appropriate legislative action based on a number of reasons, confirming that the twenty (20) conditions imposed as part of the change of zone served to "minimize any potential impacts of the surrounding area." The proposed amendment to Ordinance 1700 contemplates removal of Condition No. 15 ("Condition 15") which states "No piers, docks, boat ramps, or other water related recreational facilities shall be permitted." When the County Council passed Ordinance 1700, they confirmed that "The applicant established by substantial evidence that the proposed use would not have an adverse

<sup>1</sup> See Exhibit A detailing the Property Owner Names and Addresses.

impact on the character of the neighborhood, property values, traffic or the environment.” If granted, this amendment to remove Condition 15 will permit many adverse impacts on the surrounding area environmentally, aesthetically, and would create considerable safety and noise concerns. Now that the entire Canal Pointe community is developed, this original condition has even more significance and must be enforced not removed.

The Property Owners are also specifically opposed to the installation of any dock and especially a dock designed similar or identical to the dock proposed in 2017. The 2017 design was defined as a “Kayak/Canoe Launch” but appeared to be much more than that, consisting of a 8’ x 6’ ramp, 18’ x 6’ fixed walkway/pier, 12’ x 3’ gangway, 10’ x 6’ floating pier, and 8’ x 30’ floating dock.

The designated area for the proposed dock and recreational area is located between two environmentally sensitive areas consisting of land in the flood zone and/or Federal and State protected wetlands.<sup>2</sup> In fact, except for the small area where the applicant now wants to set up the dock and recreational area, the entire eastern border of the subdivision consists of Federal or State protected wetlands. If any dock or recreational area is permitted, the installation of the dock will further damage an environmentally sensitive area of wetlands that has already been damaged by residents of this development by launching kayaks and paddle boards into the canal. The developer and now the HOA have not prohibited the very use which the HOA now wishes to permit. The HOA wants to now allow all families who have community access to this adjacent area to have the right to a semi-public community launch site for numerous water related recreational activities. If Condition 15 is removed, it will be an invitation for all manner of activities at the canal front and the eventual destruction of wildlife (a family of Eagles that nest within 100 yards of the area), aquatic habitat, and flora and fauna in and near the canal and the wetlands adjacent thereto.

No residents of the community can claim that they were not aware of and bound by this restriction. They could not have any reasonable expectation that access to the canal would be permitted. The typical resident may have assumed that recreational activities in the canal were permissible in this area because the developer and the HOA constructed a non-permeable Concrete Walkway that ends near but not in the environmentally sensitive area proposed for dock installation. In the Applicant’s submission, it suggests Canal Park and the Concrete Walkway abut a marsh area. The Applicant included a Plan View of the Proposed Project drafted and prepared by Precision Marine Construction Inc. on June 6, 2017 that states that the distance to the end of the Concrete Walkway to the Canal is at least 56 feet. In the original recorded site plan, the area east of the end of the existing walkway was identified as wetlands.

Further, in the reasons supporting the approval of Ordinance 1700, the County Council found that the projects would be served by amenities located *on site, which include, but are not limited to, a swimming pool and walking trails*. This proposed dock is an offsite, geographically distant amenity inconsistent with the amenities plan for the community and exceeds the scope of what County Council considered appropriate legislative action for the approved change of zone.

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<sup>2</sup> See Exhibit B including Plot Book 88, Page 163, 165, and 171 of the Canal Point Residential Planned Community Record Plan.

In addition to concerns about environmental impacts, the Applicant's submission referenced a five-space parking area for vehicles over 400 feet to the proposed designated dock area. The Property Owners are reasonably concerned that permanent or semi-permanent structures will begin to appear within a year to support kayak and paddle storage because there is no parking closer than 400 feet away from the proposed communal dock and recreation site. This will not only be aesthetically unappealing but will also cause further damage to the environment if structures are built in this environmentally sensitive area.

The residents of this development have other options for recreational water activities including the option to launch their kayaks, canoes, and paddle boards at the numerous other public water access locations in Rehoboth, Dewey, and Lewes. The Rehoboth Lewes Canal does not have the width or traffic capacity to have a kayak or paddle board party area in this location while also dealing with substantial motorized boat traffic that traverses the area, especially in the summer months. Permitting the removal of Condition 15 could also set a precedent for other owners in this community with possible minimal water access to the canal to seek to install other communal docks and recreational areas along the canal.

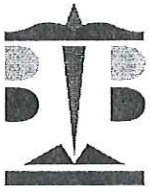
It is true that some of the objectors have docks on the other side of the canal. However, private, existing docks are different from the communal dock and recreational area proposed by the Applicant. Specifically, no private dock owner would allow hundreds of people to come through their property, drag or trundle kayaks and paddle boards or canoes over their private property to spend a day rowing and swimming around the canal. Removing the express condition as requested would allow just that. For public safety and the reasons stated above this is a terrible idea, is expressly counter to the above quoted reasons for adopting the original ordinance and the County should not permit it now.

Thank you for your consideration of the Property Owner's opposition to this application. They respectfully request that the Commission recommend denial of the request to remove Condition 15 from Ordinance 1700.

Very truly yours,

**BAIRD MANDALAS BROCKSTEDT LLC**

/s/ Stephen W. Spence  
Stephen W. Spence, Esquire (#2033)  
sws@bmbde.com  
/s/ Mackenzie M. Peet  
Mackenzie Peet, Esquire (#6692)  
mackenzie@bmbde.com  
1413 Savannah Road, Suite 1  
Lewes, DE 19958  
(302) 645-2262



BAIRD  
MANDALAS  
BROCKSTEDT LLC

EXHIBIT A  
Property Owner Names and  
Addresses



### Property Owner Name and Address List

Property Owner Name	Property Owner Address
Robert Reed	57 Tidewaters, Rehoboth Beach, DE 19971
Martin Clark	59 Tidewaters, Rehoboth Beach, DE 19971
Eileen Clark	59 Tidewaters, Rehoboth Beach, DE 19971
Constantine Malmberg	52 Tidewaters, Rehoboth Beach, DE 19971
Michael Stakias	51 Tidewaters, Rehoboth Beach, DE 19971
Joseph Coates	61 Tidewaters, Rehoboth Beach, DE 19971
Payam Hariri	61 Tidewaters, Rehoboth Beach, DE 19971
Barry Rosenthal	65 Tidewaters, Rehoboth Beach, DE 19971
Sally Fogarty	63 Tidewaters, Rehoboth Beach, DE 19971
Janice O'Malley	55 Tidewaters, Rehoboth Beach, DE 19971
Mark Duber	71 Tidewaters, Rehoboth Beach, DE 19971



BAIRD  
MANDALAS  
BROCKSTEDT LLC

# EXHIBIT B

## Record Plan

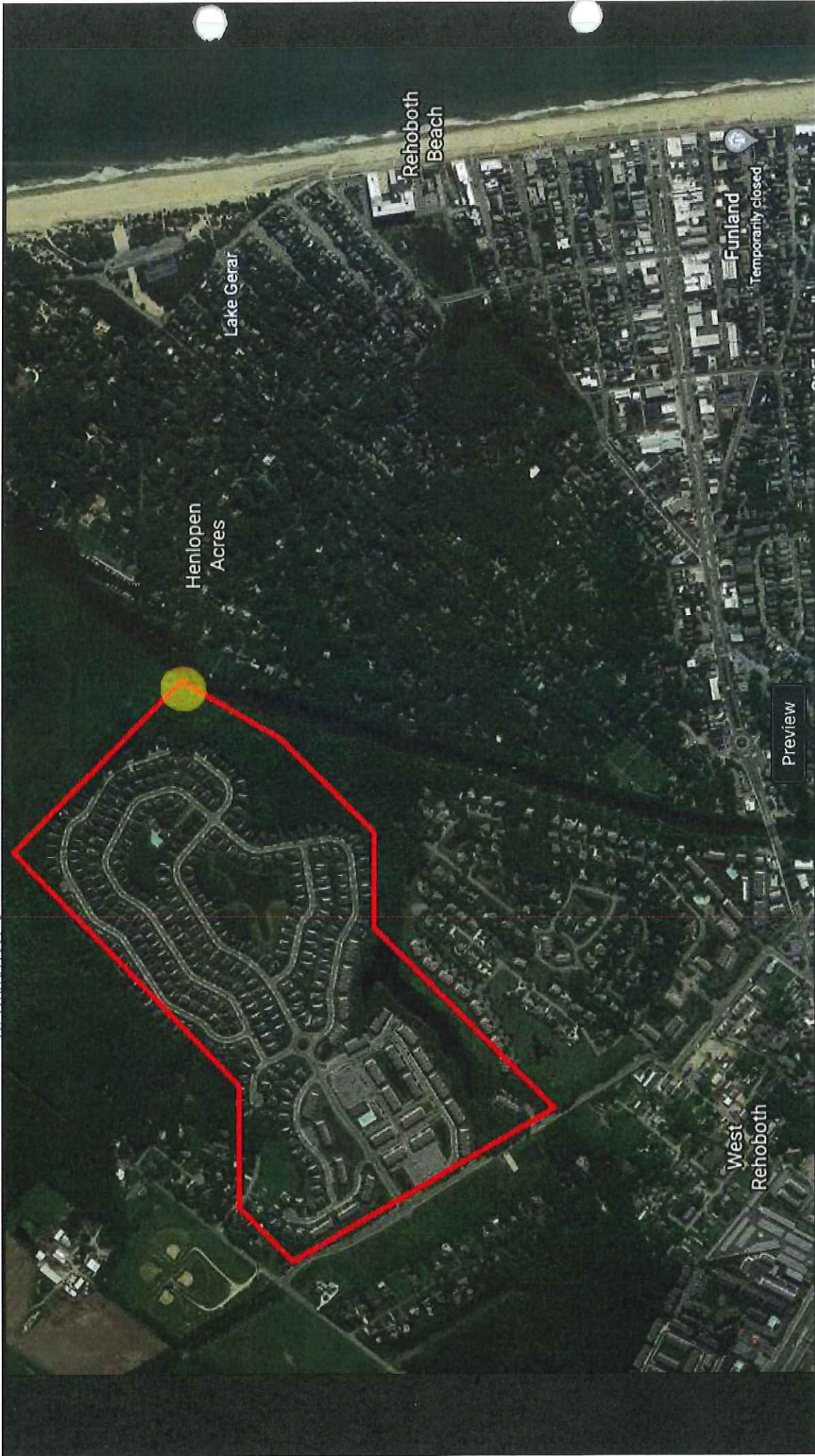
RECEIVED

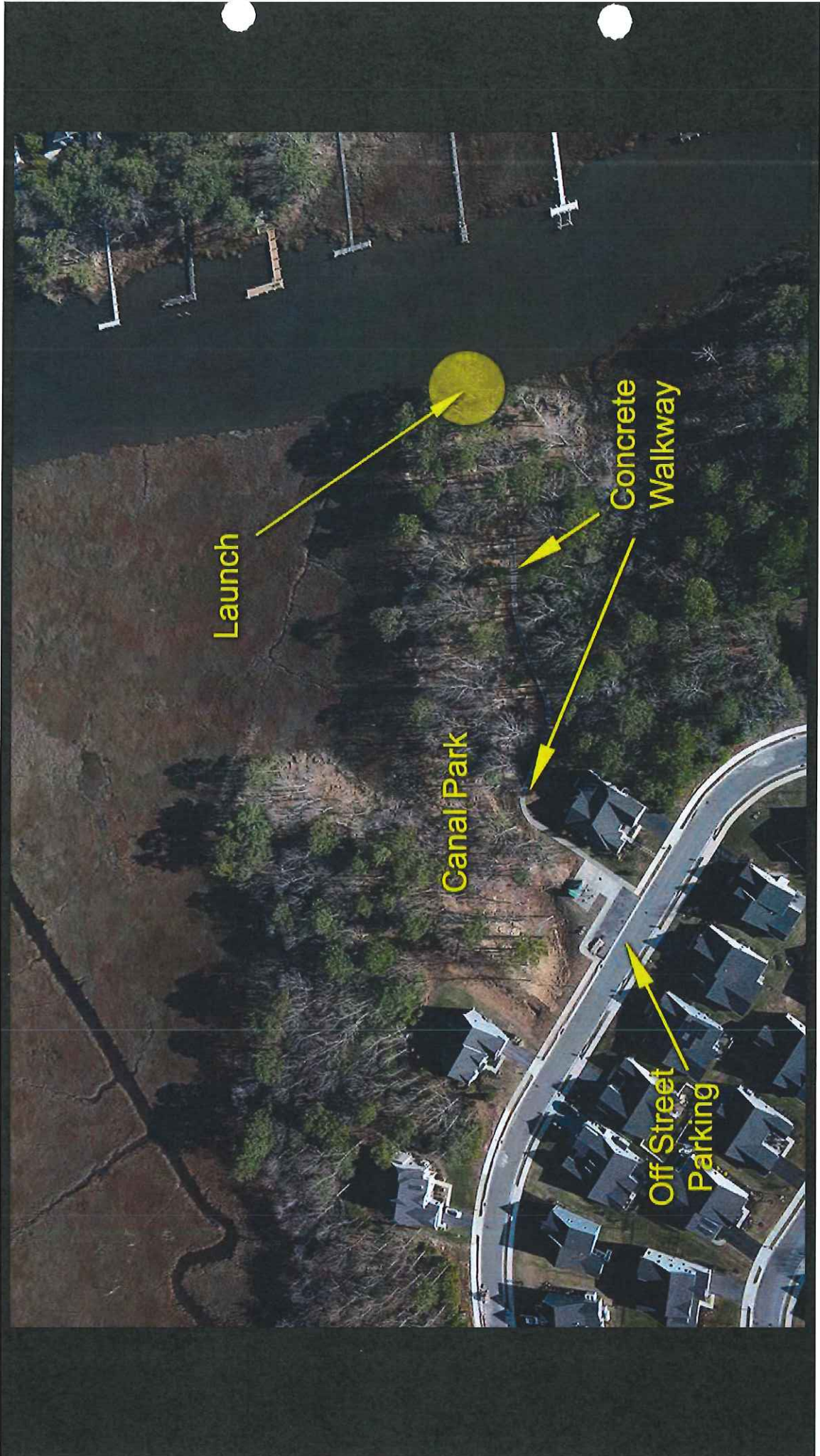
APR 22 2021

SUSSEX COUNTY  
PLANNING & ZONING

Applicant  
Exhibit

FILE COPY





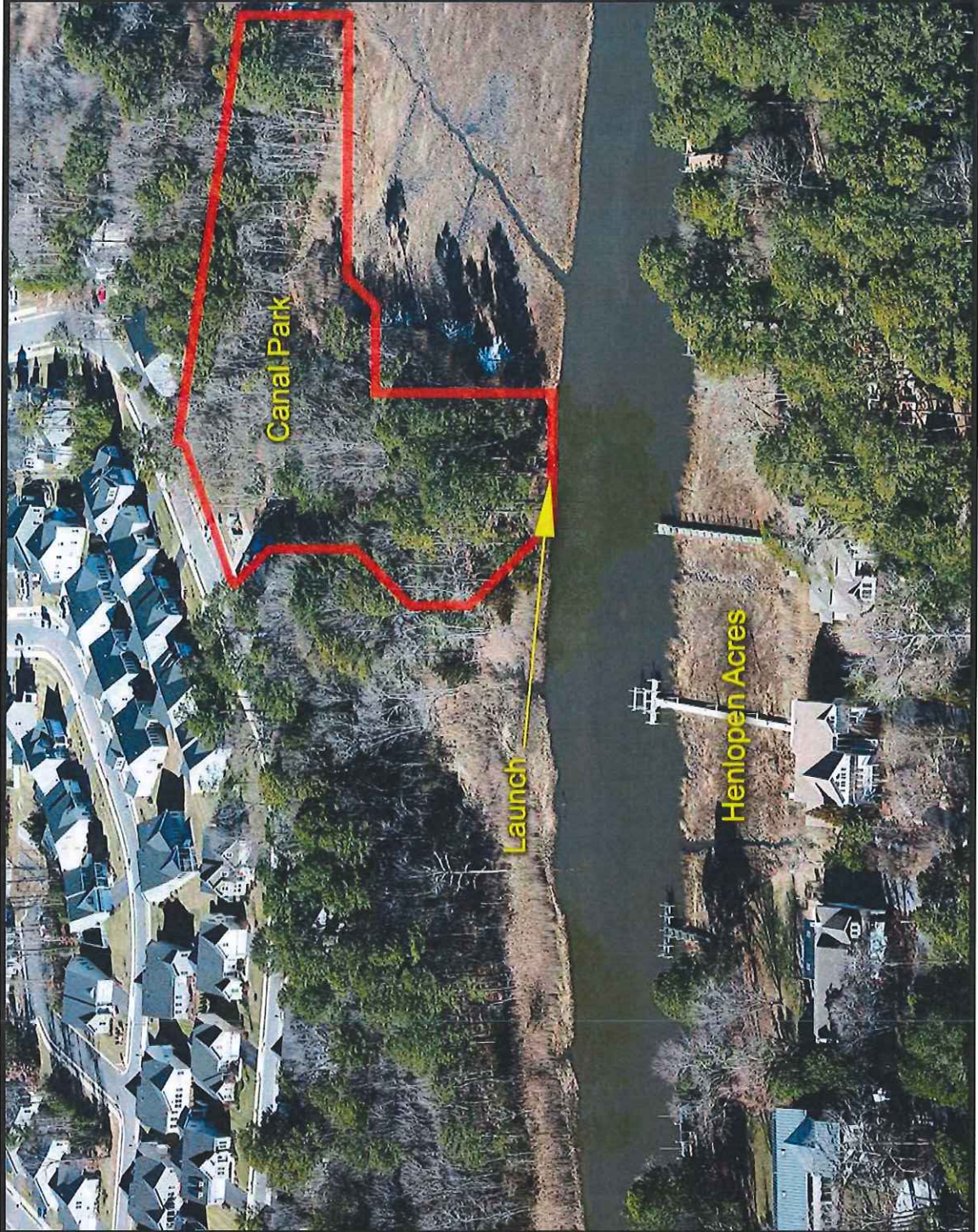
LAUNCH  
WALKWAY

CONCRETE  
WALKWAY

OFF STREET  
PARKING

CANAL  
PARK





Canal Park

Launch

Henlopen Acres





Henlopen  
Acres Marina

Rehoboth Art  
Exhibits & arts  
in historic b...

Launch

(38°43'33"N, 76°05'18"W) 2,261 ft

Google



*Welcome to*

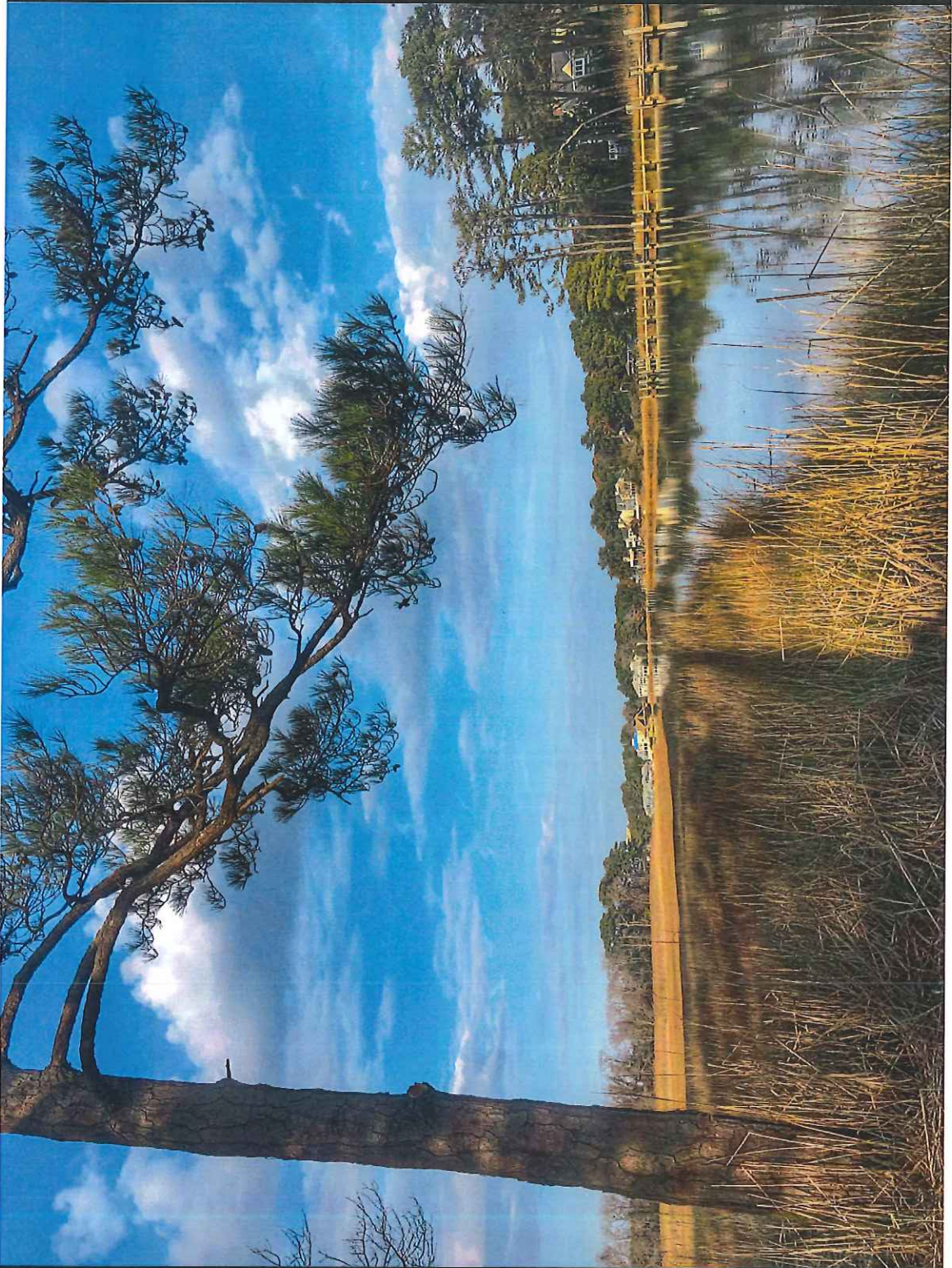
# CANAL POINTE PARK

PROPERTY OF SINGLE FAMILY HOMEOWNERS

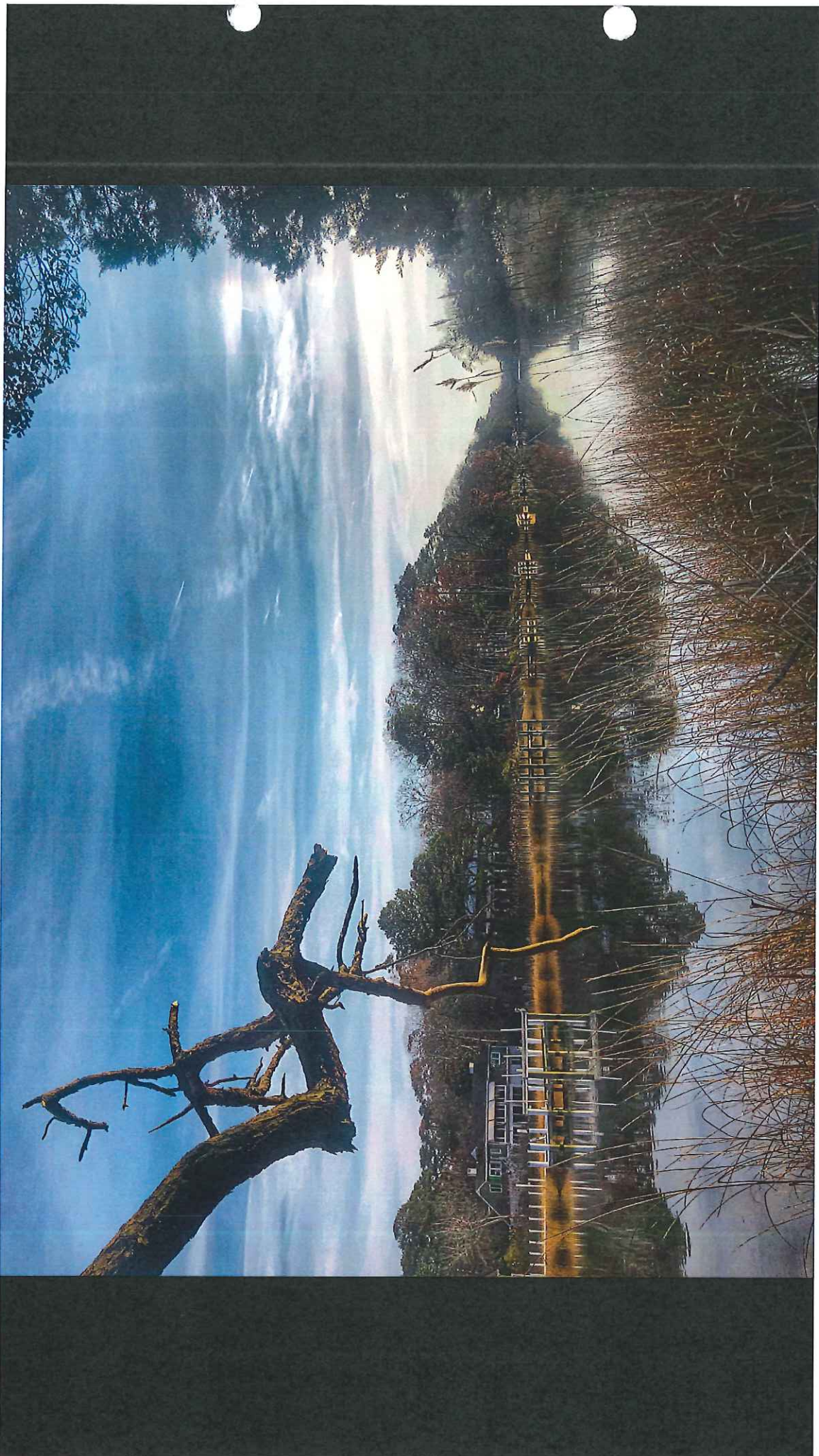
- Open Sunrise to Sunset
- Pets Leashed & Waste Bagged
- All Trash & Waste Carry-Out
- No Open Flames or Grilling
- No Unaccompanied Children Under 16
- Premises Monitored



**USE AT YOUR OWN RISK**







From the Desk of  
**DAVID A. CASTRO**  
41262 Gloucester Drive  
Rehoboth Beach, DE 19971

*d.castro@ecslawmd.com*

April 22, 2021

Sussex County Planning and Zoning Commission  
2 The Circle  
P.O. Box 417  
Georgetown, DE 19947

via e-mail to: *jamie.whitehouse@sussexcountyde.gov*  
*annlepore@sussexcountyde.gov*  
*chase.phillips@sussexcountyde.gov*

**Re: Support for C/Z 1926 CP Townhomes, LLC (Canal Point RPC)**

Dear Commissioners:

I am a homeowner in the Canal Point community, and wish to express support for and advocate for a limited exception to Condition 15, and comment on some of the positions taken by those who have expressed opposition to the same. I will add that I have been a member of the community since 2014, and make use of that beautiful common area weekly, if not daily.

Initially, I wish to express my support for a limited exception to Condition 15, and not for the complete repeal or elimination of Condition 15. I would support and propose an exception that would allow a minimal kayak launch platform for use by Canal Point residents only. I have not seen the engineering plans to which Mr. Spence refers in his opposition correspondence; but the number and size of the structures described in his opposition may well be more than what is necessary to achieve reasonable kayak access to the canal for the convenience of the small number of our community members that have kayaks. A three foot wide gangway from the higher ground just beyond the mean high tide mark to the water's edge at low tide with a three foot wide platform fifteen feet in length would be far smaller than what is described in counsel's opposition. Such a structure would not diminish the aquatic flora and fauna or impact wildlife in the area. Those who have accessed the canal at the point in question (in the past) have had to drag their kayaks through the soil at water's edge, trampling existing plant life and disturbing the bottom of the canal. A short walkway and launch platform not only would promote convenience, but would also serve to diminish and perhaps eliminate the unnecessary trampling of the area. We have all seen that designated walking platforms actually serve to protect environmental areas - the raised boardwalk in the Cape Henlopen park is one example.

While some emphasis by those that oppose a limited exception the Condition 15 has been made on the number of homes/residences in the Canal Point community, actual "life in the community experience" shows that very few people actually take the time to walk back to the canal in this remote area of the community. My experience is that that area is never crowded - in fact my wife and I rarely if ever encounter other persons there. This is not a community where kayaks and paddle board are as common as cars, or even bicycles. The fact is that very few community members have kayaks. I make these "actual life" points to rebut Mr. Spence's suggestion that there will be "hundreds" of people dragging their kayaks into the canal at that point, or that there will be "kayak parties", or people swimming around in the canal, or "all manner of activities". This speculation is simply not consistent with the community's past use of the area, nor is it consistent with the Henlopen Acres community's use of the canal (i.e., do the 200

**FILE COPY**

**SUPPORT EXHIBIT**

RECEIVED

APR 22 2021

SUSSEX COUNTY  
PLANNING & ZONING

Re: Support for C/Z 1926 CP Townhomes, LLC (Canal Point RPC)

Page Two

April 22, 2021

families in Henlopen Acres that have an actual private launch access result in hundreds of kayaks paddling around or other similar swimming events or parties?). The suggestion that there are public safety concerns for these reasons is simply unfounded.

Nor will allowing a limited exception to Condition 15 set any precedence for other communal docks, additional structures or excess use. A carefully crafted exception could include all of the necessary guardrails to eliminate this concern. A carefully crafted exception could prohibit the erection of related structures (racks), prohibit storage of boats and related equipment, make the same available only to CPHOA members, require signage directing certain use and prohibitions (such as "no swimming", "remove trash and refuse", "alcoholic beverages prohibited", etc.).

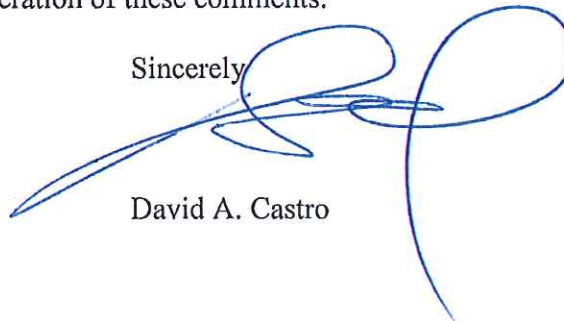
Mayor Reich raised a concern on a dock's impact on the Henlopen Acres neighbors, suggesting an "impact" by "gatherings of Canal Point residents". While I have never witnessed any "gathering of Canal Point residents" at this very small and remote portion of our community, I have seen on more than one occasion large parties hosted at the quite large homes in Henlopen Acres that border the canal - dozens of persons in the rear yards and on their piers, loud music, etc.. While I am not suggesting that this is inappropriate or that the Henlopen Acres community should not socialize in this manner, it is disingenuous to suggest that the Henlopen community is adversely impacted by a social gathering in Canal Point, but at the same time ignore the fact that the large social gatherings in its own community are at least some breach of the tranquility of the waterway. The Canal Point community has not deforested its community to any extent that is not in concert with the myriad of applicable environmental regulations and county controls; and certainly has not created any eyesore to this or any other community, such as Henlopen Acres.

I would acknowledge and thank Mayor Reich for seeking, as I propose herein, a carefully crafted and limited exception to Condition 15 which would allow this proposed kayak launch.

Lastly, the proposal for a limited kayak launch is not, as Mr. Spense suggests, "a geographically distant amenity inconsistent with the amenities plan for the community". It would in all respects be a close and convenient amenity, consistent with the plan and flavor of the community; it would serve to protect unnecessary environmental wear and erosion to the waterway, and provide a safe manner of riparian access to our community members.

Thank you for your consideration of these comments.

Sincerely,



David A. Castro

## Nick Torrance

---

**From:** Mark Moore <Markamoore01@outlook.com>  
**Sent:** Thursday, April 22, 2021 2:57 PM  
**To:** Planning and Zoning  
**Subject:** Canal Pointe Zoning

**SUPPORT EXHIBIT**

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Hi! I'm writing to request your support / vote to remove zoning restrictions which would prohibit Canal Pointe from building a launch for kayaks / canoes / small watercraft.

I understand there is pushback from others which feel they have the right to have piers and large boats on the same canal, and obviously feel they're better than the Canal Pointe Community.

The Canal is a shared waterway and isn't or shouldn't be designated for only those who feel privileged to have access to this Canal.

Access was also granted for the water taxi, which is another reason why this community should not be discriminated against.

Please consider our position in your decision making. We are educated / responsible / mature adults who deserve the same rights. We are also responsible in regulating standards, rules and restrictions within our community.

Thank you  
Mark Moore  
41362 Gloucester Dr

Get [Outlook for iOS](#)

**Nick Torrance**

---

**From:** John Whitmore <nevin1863@yahoo.com>  
**Sent:** Thursday, April 22, 2021 2:54 PM  
**To:** Nick Torrance  
**Cc:** Planning and Zoning  
**Subject:** Comment supporting Request to Amend Ordinance 1700

**SUPPORT EXHIBIT**

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Nicholas Torrance  
Sussex County – Planning & Zoning Commission  
2 The Circle  
P.O. Box 417  
Georgetown DE, 19947

Mr. Torrance,

As homeowners within the Grande at Canal Pointe (GCP) since 2010, we hereby wholeheartedly affirm our endorsement and support for the pending request to amend Ordinance 1700 to remove condition #15 – “No piers, docks, boat ramps, or other water related recreational facilities shall be permitted”.

As avid kayakers and citizens sensitive to our environment and neighborhood, we believe allowing the GCP community to share one canal access point is a very reasonable and responsible request with minimum to no practical effect on surrounding communities and/or the environment.

Thank you for your consideration and for assisting our community in this matter.

Be a Hero -- wear a mask

*John Whitmore*

Nevin1863@yahoo.com

<http://www.johnwhitmore.zenfolio.com>



SUPPORT EXHIBIT

April 22, 2021

Nicholas Torrance

Sussex County – Planning & Zoning

2 The Circle

P.O. Box 417

Georgetown DE, 19947

nicholas.torrance@sussexcountype.gov

Mr. Torrance,

As a homeowner within Grande at Canal Pointe (GCP), I would like to express my support for the request to amend Ordinance 1700 to remove condition #15 – “No piers, docks, boat ramps, or other water related recreational facilities shall be permitted”. I believe allowing the GCP community to share one canal access point is a very reasonable request.

Thank you for assisting our community in this matter.

Sincerely,

Homeowner:     Scott Wollard    

Address:     37332 Trent Court    

    Rehoboth Beach, DE 19971

## SUPPORT EXHIBIT

April 22, 2021

Nicholas Torrance

Sussex County – Planning & Zoning

2 The Circle

P.O. Box 417

Georgetown DE, 19947

[nicholas.torrance@sussexcountyde.gov](mailto:nicholas.torrance@sussexcountyde.gov)

Mr. Torrance,

As a homeowner within Grande at Canal Pointe (GCP), I would like to express my support for the request to amend Ordinance 1700 to remove condition #15 “ –No piers, docks, boat ramps, or other water related recreational facilities shall be permitted”. I believe allowing the GCP community to share one canal access point is a very reasonable request, especially given the proximity to our homes.

Thank you for assisting our community in this important subject matter.

Sincerely,

Kevin and Renee

Kevin and Renee OHara

41255 Gloucester Drive

Rehoboth Beach. DE. 19971

## Nick Torrance

---

**From:** christopher.j.rubacky@wilmu.edu  
**Sent:** Thursday, April 22, 2021 12:39 PM  
**To:** Planning and Zoning  
**Subject:** Support for Removal of Condition #15 of Ordinance 1700 for the Grande at Canal Pointe

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

4/22/21

Nicholas Torrance  
Sussex County – Planning & Zoning  
2 The Circle  
P.O. Box 417  
Georgetown DE, 19947

**SUPPORT EXHIBIT**

[nicholas.torrance@sussexcountyde.gov](mailto:nicholas.torrance@sussexcountyde.gov)

Mr. Torrance,

As a homeowner within Grande at Canal Pointe (GCP), I would like to express my support for the request to amend Ordinance 1700 to remove condition #15 – “No piers, docks, boat ramps, or other water related recreational facilities shall be permitted”. I believe allowing the GCP community to share one canal access point is a very reasonable request. Thank you for assisting our community in this matter.

Sincerely,

Homeowner: Christopher J. Rubacky

Address: 41358 Gloucester Dr.  
Rehoboth Beach, DE 19971

**Nick Torrance**

---

**From:** Denise Pintello <dpintello@comcast.net>  
**Sent:** Thursday, April 22, 2021 1:02 PM  
**To:** Planning and Zoning  
**Subject:** Ordinance 1700 - Please remove Condition #15

**SUPPORT EXHIBIT**

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Greetings:

I would like to introduce myself - and let you know that I am a full-time homeowner residing in Canal Point in Rehoboth.

I am emailing to express my support for the request to amend Ordinance 1700 to remove condition #15 – “No piers, docks, boat ramps, or other water related recreational facilities shall be permitted”.

A decision to allow the Canal Point neighborhood to share one canal access point appears to be a reasonable and fair request.

Thank you for your consideration and for assisting our community in this matter.

Sincerely,

Denise Pintello  
19584 Manchester Drive  
Rehoboth, DE 19971

Sent from my iPad

SUPPORT EXHIBIT

April 22, 2021

Nicholas Torrance

Sussex County – Planning & Zoning

2 The Circle

P.O. Box 417

Georgetown DE, 19947

nicholas.torrance@sussexcountyde.gov

Mr. Torrance,

As a homeowner within Grande at Canal Pointe (GCP), I would like to express my support for the request to amend Ordinance 1700 to remove condition #15 – “No piers, docks, boat ramps, or other water related recreational facilities shall be permitted”. I believe allowing the GCP community to share one canal access point is a very reasonable request.

Thank you for assisting our community in this matter.

Sincerely,

Homeowner:



Address:

19508 Manchester Dr.  
Rehoboth Beach, DE 19971

## Nick Torrance

---

**From:** Josh Roland <jroland1828@gmail.com>  
**Sent:** Thursday, April 22, 2021 12:35 PM  
**To:** Planning and Zoning; nicholas.torrance@sussexcountyde.govd  
**Cc:** Bill Abell  
**Subject:** Amendment to Ordinance 1700

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Mr. Torrance,

As a homeowner within the Grande at Canal Pointe (GCP), I would like to express my strong support for the request to amend Ordinance 1700 to remove condition #15 – “No piers, docks, boat ramps, or other water related recreational facilities shall be permitted”. I believe allowing the GCP community to share one canal access point is a very reasonable request and would have minimal (if any) impact on the environment and surrounding communities. There is no defensible legal basis for denying the request for a single dock in the GCP given the numerous docks and boat piers directly across the canal in Henlopen Acres and in the adjacent community of Canal Corkran.

Thank you for assisting our community in this matter.

Sincerely,  
Josh Roland  
41219 Gloucester Drive, Rehoboth Beach, DE 19971

**SUPPORT EXHIBIT**

**Nick Torrance**

---

**From:** ADAM LINDER <alinder55@comcast.net>  
**Sent:** Thursday, April 22, 2021 1:01 PM  
**To:** Planning and Zoning; Nick Torrance  
**Subject:** Kayak Launch - Grande at Canal Pointe

**SUPPORT EXHIBIT**

---

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Mr. Torrance,

As a homeowner within Grande at Canal Pointe (GCP), I would like to express my support for the request to amend Ordinance 1700 to remove condition #15 – “No piers, docks, boat ramps, or other water related recreational facilities shall be permitted”. I believe allowing the GCP community to share one canal access point is a very reasonable request. We believe it will have minimal (if any) impact on the environment and surrounding communities.

Thank you for assisting our community in this matter.

Sincerely,  
Adam Linder  
37480 Liverpool Ln  
Rehoboth Beach, DE 19971

## Nick Torrance

---

**From:** radressel@comcast.net  
**Sent:** Thursday, April 22, 2021 1:26 PM  
**To:** Nick Torrance  
**Subject:** Canal Pointe

**SUPPORT EXHIBIT**

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Mr. Torrance,

As a homeowner within Grande at Canal Pointe (GCP), I would like to express my support for the request to amend Ordinance 1700 to remove condition #15 – “No piers, docks, boat ramps, or other water related recreational facilities shall be permitted”. I believe allowing the GCP community to share one canal access point is a very reasonable request. We believe it will have minimal (if any) impact on the environment and surrounding communities.

Thank you for assisting our community in this matter.

Sincerely,

Homeowner: Ruth Ann Dressel \_\_\_\_\_

Address: 41332 Gloucester Dr

--

Sent from Outlook Email App for Android



**Nick Torrance**

---

**From:** Terry Isner <tisner@jaffepr.com>  
**Sent:** Thursday, April 22, 2021 1:33 PM  
**To:** Planning and Zoning; Nick Torrance  
**Subject:** Re: Kayak Launch - Grande at Canal Pointe

**SUPPORT EXHIBIT**

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Mr. Torrance,

As a homeowner within Grande at Canal Pointe (GCP), I would like to express my support for the request to amend Ordinance 1700 to remove condition #15 – “No piers, docks, boat ramps, or other water related recreational facilities shall be permitted”. I believe allowing the GCP community to share one canal access point is a very reasonable request. We believe it will have minimal (if any) impact on the environment and surrounding communities.

Thank you for assisting our community in this matter.

Sincerely,  
Terry M. Isner  
37480 Liverpool Ln  
Rehoboth Beach, DE 19971



Terry M Isner  
Owner/CEO Marketing & Branding  
302.519.8895

April 21, 2021

Nicholas Torrance

Sussex County – Planning & Zoning

2 The Circle  
P.O. Box 417  
Georgetown DE, 19947

nicholas.torrance@sussexcountyde.gov

Mr. Torrance,

RE: Case C/Z 1926

I would like to express my support for the request to amend Ordinance 1700 to remove condition #15 – “No piers, docks, boat ramps, or other water related recreational facilities shall be permitted”. I believe allowing the Grande at Canal Pointe community to share one canal access point is a very reasonable request.

The community would like a small and short pier to launch kayaks. The residents of Henlopen Acres canal have built very long piers for each home. I am astounded that those large structures were allowed.

GCP residents are asking for modest access to keep their feet out of the mud.

Regarding the environmental issues cited by the Henlopen residents, those issues are capably reviewed by other government agencies. I understand the GCP had already received approvals from those agencies, although currently expired.

The GCP board has diligently and respectfully managed this community improvement.

The Henlopen letter to commissioners via attorney Stephen Spence raises many unfounded claims and fears. Shame on the them for appropriating environmental concerns for their selfish goals. Shame on them for suggesting GCP residents drive over to the Rehoboth public dock with their kayaks. Does anyone want more traffic on Rehoboth Avenue? How about that environmental pollution? Why hasn't Henlopen offered their boat launch to others?

That's right, they have a marina, AND private docking piers!

Thank you for assisting our community in this matter.

Sincerely,

Homeowner: *Robert West*

Address: *312 Stockley St, Rehoboth Beach, DE 19971*

SUPPORT EXHIBIT

April 22, 2021

Nicholas Torrance

Sussex County – Planning & Zoning

2 The Circle

P.O. Box 417

Georgetown DE, 19947

nicholas.torrance@sussexcountyde.gov

Mr. Torrance,

As a homeowner within Grande at Canal Pointe (GCP), I would like to express my support for the request to amend Ordinance 1700 to remove condition #15 “ –No piers, docks, boat ramps, or other water related recreational facilities shall be permitted”. I believe allowing the GCP community to share one canal access point is a very reasonable request.

Thank you for assisting our community in this matter.

Sincerely,

Homeowner: \_\_\_Jarrett Crowley & James Kemp\_\_\_\_\_

Address: \_\_\_41321 Gloucester Dr.\_\_\_\_\_

\_\_\_Rehoboth Beach, DE 199\_\_\_\_\_

Jon Bergen  
37467 Liverpool Lane  
Rehoboth Beach, DE 19971

April 22, 2021

Nicholas Torrance

Sussex County – Planning & Zoning

2 The Circle

P.O. Box 417

Georgetown DE, 19947

**SUPPORT EXHIBIT**

nicholas.torrance@sussexcountyde.gov

Mr. Torrance,

As a homeowner within Grande at Canal Pointe (GCP), I would like to express my support for the request to amend Ordinance 1700 to remove condition #15 – “No piers, docks, boat ramps, or other water related recreational facilities shall be permitted”. I believe allowing the GCP community to share one canal access point is a very reasonable request.

Further, it has come to my attention that several “neighbors” on the opposite side of the canal (Tidewater and Henlopen Acres) are stating their opposition to this amenity. Unfortunately, their letters of opposition include illogical statements and are nothing more than an attempt to create a dual standard as to who can access the canal. Specifically, residents on Tidewater already have their own docks (some quite long through marshland) and I would presume that the sum of all dock space of their private docks is equal to or greater than this one communal dock. Thus, if they claim to be concerned about the environment, they would have already remove their own docks. In short, they are simply trying to limit access to those who can afford multi-million dollar houses on the canal. Should the good of the very few outweigh the good of the many?


Further, the assertion that 283 single family owners would use the space just does not hold water. It is nothing short of fear mongering that all users would be simultaneous. Taking a step back, kayaking and stand-up paddle boarding appeal to a subset of individuals and its illogical to think that these individuals will be simultaneous. (The pool usage – which is a lot easier for individuals to take advantage off) have minimal use.

As such, I ask for approval of this amenity.

Thank you for assisting our community in this matter.

Sincerely,

Homeowner:



---

Jon Bergen

Address: 37467 Liverpool Lane

Rehoboth Beach, DE 19971

## Nick Torrance

---

**From:** Sandelli Home <sandelli92@gmail.com>  
**Sent:** Thursday, April 22, 2021 1:24 PM  
**To:** Planning and Zoning  
**Subject:** Fwd: Ordinance 1700 Grande at Canal Pointe

**Categories:** Nick

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----- Forwarded message -----

**From:** Sandelli Home <sandelli92@gmail.com>  
**Date:** Thu, Apr 22, 2021 at 10:20 AM  
**Subject:** Ordinance 1700 Grande at Canal Pointe  
**To:** <nicholas.torrance@sussexcountyde.gov>

**SUPPORT EXHIBIT**

Mr. Torrance,

As a homeowner within Grande at Canal Pointe (GCP), I would like to express my support for the request to amend Ordinance 1700 to remove condition #15 – “No piers, docks, boat ramps, or other water related recreational facilities shall be permitted”. I believe allowing the GCP community to share one canal access point is a very reasonable request. We believe it will have minimal (if any) impact on the environment and surrounding communities.

Thank you for assisting our community in this matter.

Sincerely,  
Richard and Suzanne Sandelli  
19565 Manchester Drive  
Grand at Canal Pointe  
Rehoboth Beach, DE 19971

April 22, 2021

SUPPORT EXHIBIT

Nicholas Torrance

Sussex County – Planning & Zoning

2 The Circle

P.O. Box 417

Georgetown DE, 19947

nicholas.torrance@sussexcountyde.gov

Greetings, Mr. Torrance,

We became members of the Sussex County community in 2015 when we became homeowners in the Grande at Canal Pointe (GCP) development. It is a quite, lovely neighborhood – with all of our nearby neighbors living there full-time. We've appreciated the mutual respect among the neighbors for one another, our properties and the development's amenities.

We would like to express our support for the request to amend Ordinance 1700 to remove condition #15 – "No piers, docks, boat ramps, or other water related recreational facilities shall be permitted".

Approving the GCP community to share one canal access point is a very reasonable request. We read the points made in the opposition letters – and while everyone is entitled to their opinion, they essentially reeked of to have the theme of entitlement and a continuation of a widening gap of haves and have nots. We hope that this board will remain open to ensuring that all of Sussex County residents have access to the features that make this community special – like canal access.

Thank you for assisting our community in this matter.

Sincerely,

*Karen Shaban*



Homeowner: Samir and Karen Shaban

Address: 19573 Manchester Drive, Rehoboth Beach, DE. 19971

## Nick Torrance

---

**From:** SS <snmns74@gmail.com>  
**Sent:** Thursday, April 22, 2021 11:46 AM  
**To:** Nick Torrance  
**Subject:** C/Z 1926 – CP Townhomes, LLC (Canal Point RPC) request to amend Ordinance 1700 to remove condition #15

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April 22, 2021

Nicholas Torrance  
Sussex County – Planning & Zoning  
2 The Circle  
P.O. Box 417  
Georgetown DE, 19947

**SUPPORT EXHIBIT**

[nicholas.torrance@sussexcountyde.gov](mailto:nicholas.torrance@sussexcountyde.gov)

Mr. Torrance,

As a homeowner within Grande at Canal Pointe (GCP), I would like to express my support for the request to amend Ordinance 1700 to remove condition #15 – “No piers, docks, boat ramps, or other water related recreational facilities shall be permitted”. I believe allowing the GCP community to share a kayak launch to the InterCoastal Waterway canal is a very reasonable request.

The kayak launch will:

- 1) Eliminate the need to leave the community and drive to other kayak launches thus reducing traffic and parking congestion. Residents can easily kayak to the new Rehoboth Beach kayak launch and to Dewey Beach to enjoy restaurants and entertainment (Rusty Rudder is a favorite of many residents).
- 2) Greatly improve the safety of entering and exiting the canal when kayaking. Currently, low tides require walking, slipping and sliding through knee-deep muck with the possibility of cutting oneself on buried glass.

With regards to the current ordinance, it is unclear why GCP does not have a right to build a single community kayak launch while communities directly adjacent to GCP have the right to build multiple piers and docks. These communities include Henlopen Acres (east), The Glades (north) and Canal Corkran (south). The communities are allowed to build individual piers and docks where powerboats and jet skis can be launched and large groups of people can gather. We hope that the planning and zoning commission recognizes that a single kayak launch will have significantly less environmental and crowd impact than these adjacent communities.

Thank you for assisting our community in this matter.

Sincerely,  
Homeowner: Sandor Szabo

## Nick Torrance

---

**From:** B ROBINSON <4uisue@comcast.net>  
**Sent:** Thursday, April 22, 2021 11:24 AM  
**To:** Planning and Zoning  
**Cc:** Nick Torrance  
**Subject:** Support of C/Z 1926-Zoning Amendment to Canal Pointe

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Commissioners-My wife and I are resident homeowners in the Grande at Canal Point Community. We are writing to express our support for the request to amend Ordinance 1700 to remove the restriction against any dock facility for launching kayaks into the canal. Such a facility would greatly increase the safety for canal use, particularly because of the tidal effects resulting in mud flats which occur daily in a short period of time. The City of Rehoboth Beach is encouraging "paddle access" into town, demonstrated by the construction of the new kayak dock by Grove Park. This alternative access is also demonstrated by the construction of a bike bypass along Rehoboth Avenue. Both of these measures will alleviate car traffic into town while supporting the effort to promote local business.

John & Betsy Robinson  
19564 Manchester Drive  
Rehoboth Beach, DE 19971  
717-433-1394  
4uisue@comcast.net

**SUPPORT EXHIBIT**



## Nick Torrance

---

**From:** Sam Markman <szmarkman@yahoo.com>  
**Sent:** Thursday, April 22, 2021 11:14 AM  
**To:** Nick Torrance  
**Cc:** Planning and Zoning  
**Subject:** Comment supporting Request to Amend Ordinance 1700

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Nicholas Torrance  
Sussex County – Planning & Zoning Commission  
2 The Circle  
P.O. Box 417  
Georgetown DE, 19947

**SUPPORT EXHIBIT**

Mr. Torrance,

As homeowners within the Grande at Canal Pointe (GCP) since 2010, we hereby wholeheartedly affirm our endorsement and support for the pending request to amend Ordinance 1700 to remove condition #15 – “No piers, docks, boat ramps, or other water related recreational facilities shall be permitted”.

As avid kayakers and citizens sensitive to our environment and neighborhood, we believe allowing the GCP community to share one canal access point is a very reasonable and responsible request with minimum to no practical effect on surrounding communities and/or the environment.

Thank you for your consideration and for assisting our community in this matter.

***Sam & Diane Markman***  
***(703) 615-3682***  
***The Grande at Canal Pointe***  
19462 Bridgewater Drive  
Rehoboth Beach, DE 19971

## Nick Torrance

---

**From:** Michael Zeik <mzeik@me.com>  
**Sent:** Thursday, April 22, 2021 10:56 AM  
**To:** Planning and Zoning; Nick Torrance  
**Subject:** Support to amend Ordinance 1700

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To Whom it May Concern:

As a homeowner within Grande at Canal Point (GCP), please accept this email supporting the request to amend Ordinance 1700 to remove condition #15 - "No piers, docks, boat ramps, or other water related recreational facilities..." I believe allowing the GCP community one access point is a very reasonable request. I also believe it will have minimal, if any, impact on the environment and surrounding communities. Thank you allowing us to voice our support in changing condition 15 so our community can have this access point on the canal.

Sincerely,  
Homeowners:  
Michael Zeik  
Mark Finkelstein

**SUPPORT EXHIBIT**

Address:  
19502 Bridgewater Dr.  
Rehoboth, DE 19971

\_\_\_\_\_  
**Michael Zeik**  
[mzeik@me.com](mailto:mzeik@me.com)

## Nick Torrance

---

**From:** Mary Rohde <r3rohde@msn.com>  
**Sent:** Thursday, April 22, 2021 10:37 AM  
**To:** Nick Torrance  
**Subject:** Grande at Canal Pointe

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Good morning Mr. Torrance,

As a homeowner within Grande at Canal Pointe (GCP) and a resident on Gloucester Drive, I would like to express my support for the request to amend Ordinance to remove condition #15 - "No piers, docks, boat ramps, or other water related facilities shall be permitted". I believe allowing the GCP community to share one small canal access point for kayaks and paddle boards is a very reasonable request.

Thank you for assisting our community in this matter.

Cordially,

**SUPPORT EXHIBIT**

Mary Rohde  
41324 Gloucester Drive  
Rehoboth Beach, DE. 19971

Sent from myMail for iOS

## Nick Torrance

---

**From:** William Fuchs <billfuchs77@yahoo.com>  
**Sent:** Thursday, April 22, 2021 10:37 AM  
**To:** Nick Torrance; Planning and Zoning  
**Subject:** Rezoning request

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April 22, 2021

Nicholas Torrance  
Sussex County – Planning & Zoning  
2 The Circle  
P.O. Box 417  
Georgetown DE, 19947

**SUPPORT EXHIBIT**

nicholas.torrance@sussexcountyde.gov

Mr. Torrance,

As a homeowner within Grande at Canal Pointe (GCP), I would like to express my support for the request to amend Ordinance 1700 to remove condition #15 – “No piers, docks, boat ramps, or other water related recreational facilities shall be permitted”. I believe allowing the GCP community to share one canal access point is a very reasonable request. We believe it will have minimal (if any) impact on the environment and surrounding communities.

We have reviewed the letters in opposition sent from homeowners and Town of Henlopen Acres, and their objections are preposterous. There will be nowhere near “hundreds” of people using the proposed floating dock, maybe 10 in a week during the height of the season. And the buildout of Canal Pointe was well within all guidelines for designated wetlands and tree replacement, even after some trees were removed for Canal Pointe Park. I dare say the guidelines used by the developer of Canal Pointe were much more stringent than those outdated guidelines, if any, used in the development of Henlopen Acres. In Henlopen Acres, I can see absolutely no effort to preserve wetlands and green spaces. There are numerous permanent docks across the Canal from us in Henlopen Acres. There are numerous gas-guzzling and polluting watercraft permanently docked there with frequent noisy parties and gatherings. A small floating kayak launch will not pollute nor encourage large gatherings and noise. The stated objections are totally without merit.

Thank you for assisting our community in this matter.  
Gerald Beaulieu and William Fuchs  
41209 Gloucester Drive  
Rehoboth Beach DE 19971

Sent from my iPad  
Bill Fuchs

## Nick Torrance

---

**From:** Sandelli Home <sandelli92@gmail.com>  
**Sent:** Thursday, April 22, 2021 1:20 PM  
**To:** Nick Torrance  
**Subject:** Ordinance 1700 Grande at Canal Pointe

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Mr. Torrance,

As a homeowner within Grande at Canal Pointe (GCP), I would like to express my support for the request to amend Ordinance 1700 to remove condition #15 – “No piers, docks, boat ramps, or other water related recreational facilities shall be permitted”. I believe allowing the GCP community to share one canal access point is a very reasonable request. We believe it will have minimal (if any) impact on the environment and surrounding communities.

Thank you for assisting our community in this matter.

Sincerely,  
Richard and Suzanne Sandelli  
19565 Manchester Drive  
Grand at Canal Pointe  
Rehoboth Beach, DE 19971

**SUPPORT EXHIBIT**

## SUPPORT EXHIBIT

April 22, 2021

Nicholas Torrance

Sussex County – Planning & Zoning

2 The Circle

P.O. Box 417

Georgetown DE, 19947

nicholas.torrance@sussexcountyde.gov

Mr. Torrance,

As a homeowner within Grande at Canal Pointe (GCP), I would like to express my support for the request to amend Ordinance 1700 to remove condition #15 – “No piers, docks, boat ramps, or other water related recreational facilities shall be permitted”. I believe allowing the GCP community to share one canal access point is a very reasonable request.

Canal park is a beautiful area, we walk to it every weekend. The dock will add a very usefully amenity to benefit our entire community. Provides ability to enjoy the canal without having to drive to other areas during the busy summertime season.

Thank you for assisting our community in this matter.

Sincerely,

Homeowner: Randy Ennis

Address: 37487 Liverpool Lane, Rehoboth Beach, DE 19971

## Nick Torrance

---

**From:** Bea Baby <soubea74@gmail.com>  
**Sent:** Thursday, April 22, 2021 9:44 AM  
**To:** Planning and Zoning  
**Subject:** C/Z1926 - CP Townhome, LLC (Canal Pointe RPC)

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

As a homeowner I need to voice a desire to have a kayak launch at Canal Pointe not only for the community's ability to conveniently but also safely launch and remove our kayaks from the water. The kayak provides us with a chance to experience the canal with a calm and beauty that is otherwise lost to us. Since moving to our home six years ago my husband and I have enjoyed paddling the Intracoastal Waterway canal at the back of our community only on three occasions so far. Although enjoying the canal this way is wonderful there are terrible conditions for launching our kayaks. Without a launch we are forced to place our kayaks into the water while walking into the mud/muck. The mud is so thick it will suck the shoes off your feet once you step into it. several of our neighbors have placed 2x4 boards down in order to give us something to stand on. This doesn't work well as the wood surface becomes slick from the mud and falling off the boards is inevitable. While trying to get my kayak out of the water, the last time we launched there, I slipped and fell backwards into the mud only missing a shard of glass that had surfaced from our movement in the mud. I would like to voice the need for this launch not only for convenience but for our ability to safely launch and remove our kayaks without posing a danger to ourselves.

Thank you for this opportunity to be heard today.  
Beatriz Szabo  
19577 Mnchester Drive  
Canal Pointe

**SUPPORT EXHIBIT**

## Nick Torrance

---

**From:** Mary Lou Korzenewski <maryloukorzenewski@yahoo.com>  
**Sent:** Thursday, April 22, 2021 9:14 AM  
**To:** Nick Torrance; Planning and Zoning  
**Subject:** Canal Point

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Mr. Torrance,

As a homeowner within Grande at Canal Pointe (GCP), I would like to express my support for the request to amend Ordinance 1700 to remove condition #15 – “No piers, docks, boat ramps, or other water related recreational facilities shall be permitted”. I believe allowing the GCP community to share one canal access point is a very reasonable request. We believe it will have minimal (if any) impact on the environment and surrounding communities. Thank you for assisting our community in this matter.

Sincerely,  
Mary.L. Korzenewski  
37451 Liverpool Lane  
Rehoboth Beach, DE 19971

**SUPPORT EXHIBIT**



**Nick Torrance**

---

**From:** Tom & Jeff - Resh & Meyers <tomandjeff@comcast.net>  
**Sent:** Thursday, April 22, 2021 8:56 AM  
**To:** Planning and Zoning; Nick Torrance  
**Cc:** tomandjeff@comcast.net  
**Subject:** Canal Pointe Dock / Kayak Launch

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April 22, 2021

**SUPPORT EXHIBIT**

Nicholas Torrance

Sussex County – Planning & Zoning

2 The Circle  
P.O. Box 417  
Georgetown DE, 19947

nicholas.torrance@sussexcountyde.gov

Mr. Torrance,

As a homeowner within Grande at Canal Pointe (GCP), I would like to express my support for the request to amend Ordinance 1700 to remove condition #15 – “No piers, docks, boat ramps, or other water related recreational facilities shall be permitted”. I believe allowing the GCP community to share one canal access point is a very reasonable request. We believe it will have minimal (if any) impact on the environment and surrounding communities.

Thank you for assisting our community in this matter.

Sincerely,

Homeowners: THOMAS W RESH / JEFFREY R MEYERS

Address in Canal Pointe: 41213 Gloucester Drive / Rehoboth Beach, DE 19971

SUPPORT EXHIBIT

4/22/21

Nicholas Torrance

Sussex County – Planning & Zoning

2 The Circle

P.O. Box 417

Georgetown DE, 19947

nicholas.torrance@sussexcountype.gov

Mr. Torrance,

As a homeowner within Grande at Canal Pointe (GCP), I would like to express my support for the request to amend Ordinance 1700 to remove condition #15 – “No piers, docks, boat ramps, or other water related recreational facilities shall be permitted”. I believe allowing the GCP community to share one canal access point is a very reasonable request.

Thank you for assisting our community in this matter.

Sincerely,

Homeowner:



Address:

\_\_41223 Gloucester Dr\_\_

\_\_Rehoboth Beach DE 19971\_\_

Regarding Agenda item: **C/Z 1926 – CP Townhomes, LLC (Canal Point RPC)**  
April 22, 2021

Dear Commissioners,

I submit this letter of support of “amend[ing] conditions of approval of CZ 1538 (Ordinance 1700) in relation to piers, docks, boat ramps and other water-related recreational facilities...” as it relates to “ a certain parcel of land lying and being in Lewes & Rehoboth Hundred, Sussex County.” Removal of the current restriction would allow the community to construct a facility support to support non-motorized vessel access to the Canal.

First, let me identify myself: I am Michael Searson, and I live at 19549 Manchester Drive, Rehoboth Beach, and am a member of the community that has requested this amendment.

I support the amendment under consideration for the following reasons:

- **Facilities vs Activities.** The current restriction limits “facilities” and not “activities” related to the adjacent waterway: namely, the Lewis and Rehoboth Canal. For many years through today, people have accessed the canal from the parcel of land identified as “...east side of Hebron Road approximately 0.19 miles south of the intersection of Hebron Road and Holland Glade Road (S.C. R. 271). 911 Address: N/A Tax Parcels: 334-13.00- 334.00, 1448.00 through 1750.00.” They have fished, clammed, kayaked, canoed, SUPed, and so on. Thus, the request for the amendment addresses the specific issue of allowing “water-related recreational *facilities* [emphasis added].” They will continue to access the Canal independent of any action regarding facilities.
- **Management and Access.** Noting that water-related activities at the site will continue, as they have for years, the installation of a single-access facility will provide the community the opportunity to better manage access to the canal. Currently, in a community with nearly 300 single-family homes access for the water activities described above is determined by wherever an individual chooses to access the canal. Proper installation of an appropriate facility provides greater management and safety procedures.
- **Small footprint, low impact.** Given the existing facilities that have been installed along the canal in neighboring communities and residences, if allowed, any facility at Canal Point would be a relatively small footprint and low impact. There is a current *non-motorized* restriction that is *supported* by the community. This restriction limits use to human-powered vessels, such as kayaks, SUPs, and canoes. Members of the Canal Point community not only support this limitation but, if the restriction under consideration is removed, would construct a facility designed to support non-motorized use. And such a limitation on use would be clearly community to all who access such a facility.
- **Equitable Access and Use.** Members of the Canal Point community seek equitable access and use to the adjacent Lewes and Rehoboth Canal through the construction of an appropriately designed facility. As noted above, such a facility would be relatively

low-impact and with a small footprint. Support for an amendment to remove the restrictive language to construct any facility has been overwhelmingly endorsed by community members (well over the required fifty percent threshold). Community members simply request a fair and equitable opportunity to construct such a facility

I thank you for taking the time to review my support to "amend conditions of approval of CZ 1538 (Ordinance 1700) in relation to piers, docks, boat ramps, and other water-related recreational facilities." Should you require further information from me, I can be reached through email at [msearson@gmail.com](mailto:msearson@gmail.com) or by phone/text at 908-347-1979.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Michael Searson', with a long horizontal line extending to the right.

Michael Searson  
19549 Manchester Dr, Rehoboth Beach, DE 19971

## SUPPORT EXHIBIT

21 April 2021

Nicholas Torrance

Sussex County – Planning & Zoning

2 The Circle  
P.O. Box 417  
Georgetown DE, 19947

[nicholas.torrance@sussexcountyde.gov](mailto:nicholas.torrance@sussexcountyde.gov)

Mr. Torrance,

As a homeowner within Grande at Canal Pointe (GCP), I would like to express my support for the request to amend Ordinance 1700 to remove condition #15 – “No piers, docks, boat ramps, or other water related recreational facilities shall be permitted”.

At this time, the GCP HOA is only requesting that condition 15 of Ordinance 1700 be removed. Anything beyond this immediate measure would have to be brought before the HOA board again, voted on by the board members, and most likely require an approved special assessment to do anything more.

I believe allowing the GCP community the option to share one canal access point is a very reasonable request.

Thank you for assisting our community in this matter.

Sincerely,

Homeowner: Dixon Charles

Address: 41283 Gloucester Drive, Rehoboth Beach, DE 19971

## SUPPORT EXHIBIT

04/21/2021

From:

Mark and Tara Novak  
37537 Worcester Drive  
Rehoboth Beach, DE 19971  
732-407-7047

To:

Mr. Nicholas Torrance  
Sussex County – Planning & Zoning  
2 The Circle  
P.O. Box 417  
Georgetown DE, 19947

[nicholas.torrance@sussexcountyde.gov](mailto:nicholas.torrance@sussexcountyde.gov)

Dear Mr. Torrance,

We are current homeowners at Grande at Canal Pointe (GCP), and are writing to provide our **UNDIVIDED SUPPORT** for the request to amend Ordinance 1700 to remove condition #15 – “No piers, docks, boat ramps, or other water related recreational facilities shall be permitted”. We moved to Rehoboth Beach in January 2020 after living in Middletown DE for the past 15 years and absolutely love it. The community we live in is a beautiful, peaceful community who would like to take advantage of the stunning nature that our community sits on. We ride our bikes all through Henlopen Acres and see all of the docks and boat lifts in just about every back yard and hope that we will be extended the same consideration as the homeowners in that community. We believe allowing the GCP community to share one canal access point is a very reasonable request and hope you will be supportive of our request and community.

Thank you for assisting our community in this matter.

Sincerely,

Mark and Tara Novak

## SUPPORT EXHIBIT

April 21, 2021

Nicholas Torrance

Sussex County – Planning & Zoning

2 The Circle

P.O. Box 417

Georgetown DE, 19947

[nicholas.torrance@sussexcountyde.gov](mailto:nicholas.torrance@sussexcountyde.gov)

Mr. Torrance,

As a homeowner within Grande at Canal Pointe (GCP), I would like to express my support for the request to amend Ordinance 1700 to remove condition #15 – “No piers, docks, boat ramps, or other water related recreational facilities shall be permitted”. I believe allowing the GCP community to share one canal access point is a very reasonable request, especially given the recent completion of the Rehoboth Ave dock.

Thank you for assisting our community in this matter.

Sincerely,

Homeowner: Mark & Deborah Kauffman

Address: 19541Manchester Dr

Rehoboth Beach, DE 19971

JOHN TERENCE JAYWORK  
709 GREENWINGED TRAIL  
WYOMING, DE 19934

SUPPORT EXHIBIT

Sussex County Planning & Zoning Commission  
Sussex County Council  
2 The Circle  
PO Box 417  
Georgetown, DE 19947

April 9<sup>th</sup>, 2021  
RE: C/Z 1926 – CP Townhomes LLC

Gentlemen,

I am writing to you as a private citizen who owns a SFH in "The Grande At Canal Pointe."

I would ask you (and the County Council) to look favorably upon and approve application C/Z 1926 to allow the placement or construction of short dock on the Lewes & Rehoboth Canal at the association's dedicated open space at or near the southeast corner of the single-family home subdivision.

It is my understanding that what is envisioned in the long term is a fairly modest dock to allow residents of the subdivision to launch kayaks from the shore into the canal. My wife and I own two kayaks and several years ago, we launched from the shore at that point and had a wonderful paddle several miles down the canal toward Lewes. Our launch occurred at high tide and was not too difficult. However, when we returned to the launch site at low tide, we had to wade literally knee-deep through the silted mud to get our kayaks back to shore. For that reason, that was our last and only attempt to kayak from our subdivision.

Allowing a dock or pier to protrude some relatively short distance into the canal would allow kayakers to get their boats into and out of the water without having to fight through the mud and risk cutting their feet on whatever may be buried in that soft mud. This type of activity would be environmentally friendly, promote physical fitness, and enhance the "vibe" of Rehoboth; and the fact that access would be limited to residents of Canal Pointe would insure not only that the number of kayaks launched from that site would remain modest (many Canal Pointe residents are older, retired people), but that the facility would be "policed" and maintained by the homeowners' association. Notably, a short dock to launch kayaks would have dramatically less impact than the existing marina, piers, and private docks along Tidewater Road and in the Town of Henlopen Acres, so opposition from those quarters rings of "we've got ours, now bar the door!"

So – please support and approve this application.

Thank you.



Terry Jaywork



## Nick Torrance

---

**From:** Anne Taylor <annetaylor128@gmail.com>  
**Sent:** Wednesday, April 21, 2021 9:16 PM  
**To:** Planning and Zoning; Nick Torrance  
**Subject:** Ordinance 1700

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Mr. Torrance,

I am Anne Taylor and I am a homeowner in the Grande at Canal Pointe (GCP). Our community is excited to hopefully finally realize kayak and small craft access to the beautiful canal that we back up to.

I would like to express my support for the request to amend Ordinance 1700 to remove condition #15 – “No piers, docks, boat ramps, or other water related recreational facilities shall be permitted”. I believe allowing the GCP community to share one canal access point is a very reasonable request.

It is unfair and somewhat arrogant for neighbors across the canal to try to deny our access to a common public waterway that they have enjoyed for many years. Thank you very much for assisting our community in this matter.

Sincerely,  
Anne Taylor  
41373 Gloucester Drive  
Rehoboth Beach, DE 19711

**SUPPORT EXHIBIT**

**Nick Torrance**

---

**From:** Patrice Delargey <pcdelargey@gmail.com>  
**Sent:** Wednesday, April 21, 2021 7:39 PM  
**To:** Planning and Zoning  
**Subject:** Dock Installation

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April 21, 2021

Nicholas Torrance  
Sussex County – Planning & Zoning  
2 The Circle  
P.O. Box 417  
Georgetown DE, 19947

[nicholas.torrance@sussexcountyde.gov](mailto:nicholas.torrance@sussexcountyde.gov)

Mr. Torrance,

As a homeowner within Grande at Canal Pointe (GCP), I would like to express my support for the request to amend Ordinance 1700 to remove condition #15 – “No piers, docks, boat ramps, or other water related recreational facilities shall be permitted”. I believe allowing the GCP community to share one canal access point is a very reasonable request.

Thank you for assisting our community in this matter.

Sincerely,

Homeowner:

Rick and Patrice Delargey \_\_\_\_\_

**SUPPORT EXHIBIT**

Address:

19506 Bridgewater Drive \_\_\_\_\_

Rehoboth Beach, Delaware 19971 \_\_\_\_\_

## SUPPORT EXHIBIT

April 22, 2021

Nicholas Torrance

Sussex County – Planning & Zoning

2 The Circle

P.O. Box 417

Georgetown DE, 19947

[nicholas.torrance@sussexcountyde.gov](mailto:nicholas.torrance@sussexcountyde.gov)

Mr. Torrance,

As a homeowner within Grande at Canal Pointe (GCP), I would like to express my support for the request to amend Ordinance 1700 to remove condition #15 – “No piers, docks, boat ramps, or other water related recreational facilities shall be permitted”. I believe allowing the GCP community to share one canal access point is a very reasonable request.

Thank you for assisting our community in this matter.

Sincerely,

Homeowner: Debbie Len & Keith Frey

Address: 37534 Worcester Drive

Rehoboth Beach, DE 1997

## SUPPORT EXHIBIT

Nicholas Torrance

Sussex County – Planning & Zoning

2 The Circle

P.O. Box 417

Georgetown DE, 19947

[nicholas.torrance@sussexcountyde.gov](mailto:nicholas.torrance@sussexcountyde.gov)

Mr. Torrance,

As a homeowner within Grande at Canal Pointe (GCP), I would like to express my support for the request to amend Ordinance 1700 to remove condition #15 – “No piers, docks, boat ramps, or other water related recreational facilities shall be permitted”. I believe allowing the GCP community to share one canal access point is a very reasonable request.

Thank you for assisting our community in this matter.

Sincerely,

Homeowner: Brian and Lauren Morley

Address: 41377 Gloucester Drive  
Rehoboth Beach, DE 19971

## SUPPORT EXHIBIT

4/21/2021

Nicholas Torrance

Sussex County – Planning & Zoning

2 The Circle

P.O. Box 417

Georgetown DE, 19947

[nicholas.torrance@sussexcountyde.gov](mailto:nicholas.torrance@sussexcountyde.gov)

Mr. Torrance,

As a homeowner within Grande at Canal Pointe (GCP), I would like to express my support for the request to amend Ordinance 1700 to remove condition #15 – “No piers, docks, boat ramps, or other water related recreational facilities shall be permitted”. I believe allowing the GCP community to share one canal access point is a very reasonable request.

Thank you for assisting our community in this matter.

Sincerely,

Homeowner: Pierre Pozzo di Borgo

Address: 37408 Liverpool Ln, Rehoboth Beach, DE

## SUPPORT EXHIBIT

Apr 21, 2021

Nicholas Torrance

Sussex County – Planning & Zoning

2 The Circle

P.O. Box 417

Georgetown DE, 19947

nicholas.torrance@sussexcountyde.gov

Mr. Torrance,

As a homeowner within Grande at Canal Pointe (GCP), we would like to express our support for the request to amend Ordinance 1700 to remove condition #15 – “No piers, docks, boat ramps, or other water related recreational facilities shall be permitted”. We believe allowing the GCP community to share one canal access point is a very reasonable request. We would be able to enjoy putting in canoes and kayaks from a small access point. We feel that this simply increases access and enjoyment of the beauty of Rehoboth Beach.

We understand that there is opposition from our neighbors across the canal, but don't understand how they could enjoy such access as they would like to deny us in good conscience.

Thank you for assisting our community in this matter.

Sincerely,



Homeowners: Brian And Hsiao Smith

Address: 41389 Gloucester Dr  
Rehoboth Beach, DE 19971

## Nick Torrance

---

**From:** Samuel Gerbino, Jr. <architect7@hotmail.com>  
**Sent:** Wednesday, April 21, 2021 7:29 PM  
**To:** Planning and Zoning; Nick Torrance  
**Subject:** Grande at Canal Point - Condition #15

SUPPORT EXHIBIT

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Flagged

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4/21/21

Nicholas Torrance

Sussex County – Planning & Zoning

2 The Circle  
P.O. Box 417  
Georgetown DE, 19947

[nicholas.torrance@sussexcountyde.gov](mailto:nicholas.torrance@sussexcountyde.gov)

Mr. Torrance,

As a homeowner within Grande at Canal Pointe (GCP), I would like to express my support for the request to amend Ordinance 1700 to remove condition #15 – “No piers, docks, boat ramps, or other water related recreational facilities shall be permitted”. I believe allowing the GCP community to share one canal access point is a very reasonable request.

Thank you for assisting our community in this matter.

Sincerely,

Homeowner: Brian Helsdon & Sam Gerbino, Jr.

Address: 19481 Manchester Drive, Rehoboth Beach, DE 19971

SUPPORT EXHIBIT

April 21, 2021

Nicholas Torrance

Sussex County – Planning & Zoning

2 The Circle

P.O. Box 417

Georgetown DE, 19947

nicholas.torrance@sussexcountyde.gov

Mr. Torrance,

As a homeowner within Grande at Canal Pointe (GCP), I would like to express my support for the request to amend Ordinance 1700 to remove condition #15 – “No piers, docks, boat ramps, or other water related recreational facilities shall be permitted”. I believe allowing the GCP community to share one canal access point is a very reasonable request.

Thank you for assisting our community in this matter.

Sincerely,

Homeowner: John & Tracy Byrne



Address: 37479 Liverpool Lane

Rehoboth Beach, DE 19971



## SUPPORT EXHIBIT

April 21, 2021

Nicholas Torrance

Sussex County – Planning & Zoning

2 The Circle  
P.O. Box 417  
Georgetown DE, 19947

nicholas.torrance@sussexcountyde.gov

Mr. Torrance,

RE: Case C/Z 1926

As a homeowner within Grande at Canal Pointe (GCP), I would like to express my support for the request to amend Ordinance 1700 to remove condition #15 – “No piers, docks, boat ramps, or other water related recreational facilities shall be permitted”. I believe allowing the GCP community to share one canal access point is a very reasonable request.

Our community would like a small and short pier to launch our kayaks. The residents of Henlopen Acres canal have built very long piers for each home. I am astounded that those large structures were allowed. We are asking for a small modest access to keep our feet out of the mud.

I read the Henlopen Acres letter regarding the matter. Their letter reflects a selfish and privileged position that is appalling. I visit the park area often and find it sparsely occupied. I have never witnessed any noise from the area.

Maybe the nuisance reported by the Henlopen residents is imagined or more likely contrived?

Maybe they were hearing noises from boaters?

I think they would block the whole Canal from the public with a fence if they could get away with it. I suspect their opposition comes from a mindset of privilege, not community.

Thank you for assisting our community in this matter.

Sincerely,

Homeowner: Robert West

## SUPPORT EXHIBIT

April 21, 2021

Nicholas Torrance

Sussex County – Planning & Zoning

2 The Circle  
P.O. Box 417  
Georgetown DE, 19947

nicholas.torrance@sussexcountyde.gov

Mr. Torrance,

RE: Case C/Z 1926

I would like to express my support for the request to amend Ordinance 1700 to remove condition #15 – “No piers, docks, boat ramps, or other water related recreational facilities shall be permitted”. I believe allowing the Grande at Canal Pointe community to share one canal access point is a very reasonable request.

The community would like a small and short pier to launch kayaks. The residents of Henlopen Acres canal have built very long piers for each home. I am astounded that those large structures were allowed.

GCP residents are asking for modest access to keep their feet out of the mud.

Regarding the environmental issues cited by the Henlopen residents, those issues are capably reviewed by other government agencies. I understand the GCP had already received approvals from those agencies, although currently expired.

The GCP board has diligently and respectfully managed this community improvement.

The Henlopen letter to commissioners via attorney Stephen Spence raises many unfounded claims and fears. Shame on the them for appropriating environmental concerns for their selfish goals. Shame on them for suggesting GCP residents drive over to the Rehoboth public dock with their kayaks. Does anyone want more traffic on Rehoboth Avenue? How about that environmental pollution? Why hasn't Henlopen offered their boat launch to others?

That's right, they have a marina, AND private docking piers!

Thank you for assisting our community in this matter.

Sincerely,

Homeowner: *Robert West*

Address: *312 Stockley St, Rehoboth Beach, DE 19971*

**Nick Torrance**

---

**From:** Jason Russo <jasonjrusso@gmail.com>  
**Sent:** Wednesday, April 21, 2021 8:11 PM  
**To:** Planning and Zoning  
**Subject:** Re: C/Z 1926, CP Townhouse, LLC

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On Apr 21, 2021, at 8:10 PM, Jason Russo <[jasonjrusso@gmail.com](mailto:jasonjrusso@gmail.com)> wrote:

I am a property owner and long-term resident of the Grande at Canal Pointe and am unable to attend the April 22, 2021 Planing and Zoning hearing regarding the above mentioned zoning amendment which will remove the zoning restrictions to build a pier, dock or boat ramp in the Grande at Canal Pointe subdivision.

I am writing in support of the commission voting **NO** to this request to amend the ordinance. I am sure the majority of the community initially voted yes for this, but most are not aware of the true costs as well as the other issues that will arise, especially the potential liability. The truth is that the HOA and the Property Manager (a very small firm) are not equipped to handle the scope of this project and the aftermath. I also do not think they are prepared for the opposition that will come from our neighbors and the all the additional costs, especially legal fees, associated with this opposition. On the surface this project sounds like a great idea for the community, but in the end it will prove to be costly and disruptive.

Please vote **No** to this amendment request so that this project can be put to a stop now rather than lingering on even longer than it already has.

Jason Russo  
Grande at Canal Pointe  
37405 Liverpool Lane  
Rehoboth Beach, DE 19971  
302-500-1327



## Jamie Whitehouse

---

**From:** Porter Wheeler <porterwheeler@gmail.com>  
**Sent:** Wednesday, April 21, 2021 9:20 PM  
**To:** Jamie Whitehouse  
**Cc:** Joni Reich; Henlopen Acres Town Manager  
**Subject:** Proposed Changes to Canal Pointe Plan

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Submission before Hearing on Canal Pointe proposal.

This is to **object to the proposed amendment** to conditions of approval for the development of property known as Canal Pointe. The proposal to permit development of docking facilities in the Rehoboth-Lewes Canal raises serious issues about the continuity of this development plan and will likely have negative impacts on preservation of wetlands on the western side of the Canal.

This proposal is especially disingenuous in that their HOA proposes to build piers and dockage thru and over protected wetlands in order to "protect" them from otherwise undesirable use by their own Canal Pointe residents? That is, they are likely to refrain from protecting their otherwise protected wetlands in order to permit boating access in any event!

In addition, I have not heard anything about needed restrictions from overuse of the pier and dock by all HOA members and others. There are a large number of homes in the HOA, creating the potential for hundreds of users depending on how the facility is accessed and used. Not a pleasant thought. Further, I expect that the limitation to non-motorized watercraft will be both difficult to enforce and might not stand up for long.

Finally, but significantly, this proposed change will disturb the peaceful enjoyment of my residence and numerous other properties along Tidewaters Road in Henlopen Acres, and would do so in an unanticipated fashion.

I urge you to report negatively on this proposed amendment.  
Sincerely, Porter Wheeler

--

Porter K. Wheeler, Ph.D., Consultant on Transportation Policy and Finance

79 Tidewaters Road, Henlopen Acres, DE 19971

April 22, 2021

Nicholas Torrance  
Sussex County Planning and Zoning Planner I  
Via Email: nicholas.torrance@sussexcountye.gov

Sussex County – Planning & Zoning  
2 The Circle  
P.O. Box 417  
Georgetown DE, 19947

Mr. Torrance,

As a homeowner within Grande at Canal Pointe I would like to express my opposition for the request to amend Ordinance 1700 to remove condition #15 – “No piers, docks, boat ramps, or other water related recreational facilities shall be permitted”. I believe not seeking access or shared costs prior to the removal of condition #15 from Ordinance 1700 with the condominium and townhome owners of the Grande at Canal Pointe does not provide for an inclusive community or RPC. The Grande at Canal Pointe Condominium Association did not participate in the voting process of the RPC to remove the condition. Stating “allowing the GCP community to share one canal access point is a very reasonable request” would be reasonable, if 265 Units of the condominium association were included in any portion of the process. I have included two emails below:

1. Nicholas Torrance, October 8, 2020 stating Sussex County Planning and Zoning would not be involved in access. Exhibit 1, and
2. Melissa Donnelly, President of the Grande at Canal Pointe Maintenance Corporation, April 5, 2021 not seeking to engage in discussion or negotiation prior to the removal of condition #15 of Ordinance 1700, appears intentions are not positive concerning access. The Maintenance Corporation will decide upon access with a favorable decision to remove condition #15 which may result in complete restriction or fee to the Condominium Association. Exhibit 2

If Condition #15 of Ordinance 1700 is removed an amenity will be created in The Grande at Canal Pointe RPC that may not include access to forty seven percent (47%) of the RPC.

The Sixth Amendment to the Declaration of The Grande at Canal Pointe Condominium Association (Exhibit 3) grants easement of amenities Parcel C for Sussex County Tax Parcel No. 3-34-13.00-1749.00 and the First Amendment to the Declaration of The Grande at Canal Pointe Maintenance Corporation (Exhibit 4) grants easement of amenities parcel for Sussex County Tax Parcel No. 3-34-13.00-1743.00. Parcel C of the Grande at Canal Pointe Condominium Association includes a clubhouse, outdoor pool, and a sports court. The amenity parcel for The Grande at Canal Pointe Maintenance Corporation includes a clubhouse, outdoor pool, and bocce ball area. The amenity parcels are not included as shared expenses and do not constitute

an equal maintenance cost to each association. The cost of maintenance for a nine (9) foot fenced sports court that includes tennis and basketball, which will be resurfaced and upgraded to include pickleball at a cost of \$22,000.00, versus a bocce ball area are grossly unequal.

If the removal of Condition #15 of Ordinance 1700 is approved by the Sussex County Planning and Zoning Commission access by the Grande at Canal Pointe Condominium Association should be granted without any cost to owners of the Grande at Canal Pointe Condominium Association.

Thank you for your consideration and time in this matter.

Sincerely,

Theodore Tymczyszyn  
37494 Worcester Drive  
Rehoboth Beach, DE 19971

Enclosures:

- Exhibit 1
- Exhibit 2
- Exhibit 3
- Exhibit 4

**RE: Grande at Canal Pointe Site Plan Ordinance 1700 Item 15**

Nick Torrance <nicholas.torrance@sussexcountyde.gov>

Thu 10/8/2020 8:49 AM

To: Ted Tymczyszyn <ted\_tymczyszyn@hotmail.com>

Good Morning Ted,

I spoke with my Director this morning and the only P&Z requirement is that if County Council approves the change of conditions of approval that the restricted covenants reflect such changes. If the conditions are changed, it will apply to the entire RPC. I understand there are multiple agencies inside of the RPC and that would have to be worked out legally between such parties. So as mentioned above, the only P&Z requirement is that the changes are addressed.

Thanks,

*Nick Torrance*

Planner I

Department of Planning and Zoning

(302) 855-7878

2 The Circle

P.O. Box 417

Georgetown, DE 19947

---

**From:** Ted Tymczyszyn <ted\_tymczyszyn@hotmail.com>  
**Sent:** Tuesday, October 6, 2020 6:18 PM  
**To:** Nick Torrance <nicholas.torrance@sussexcountyde.gov>  
**Cc:** Catalano, Helaine <hbcatalano@gmail.com>  
**Subject:** Fw: Grande at Canal Pointe Site Plan Ordinance 1700 Item 15  
**Importance:** High

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Nick,

It has been a week since the below email was sent, to date I have not received a response.

Ted Tymczyszyn  
Grande at Canal Pointe Condominium Association  
President

---

**From:** Ted Tymczyszyn  
**Sent:** Tuesday, September 29, 2020 1:55 PM  
**To:** [nicholas.torrance@sussexcountyde.gov](mailto:nicholas.torrance@sussexcountyde.gov) <[nicholas.torrance@sussexcountyde.gov](mailto:nicholas.torrance@sussexcountyde.gov)>  
**Cc:** Helaine Catalano <[hbcatalano@gmail.com](mailto:hbcatalano@gmail.com)>  
**Subject:** Grande at Canal Pointe Site Plan Ordinance 1700 Item 15

Nick,

Hope you are doing well.

As president of the condominium Association I am seeking clarification to the removal of Item 15 of Ordinance 1700 on the Grande at Canal Pointe Site Plan. During one of the initial conference calls with the Developer you spoke about the public hearing that would take place and the wide scope of owners that would receive the notice. Since the notice will likely be sent to all owners in the Grande at Canal Pointe that will include 265 Condominium Association owners and 294 Maintenance Corp owners. Also mentioned was the need to edit the Association's Declarations, I would assume specifically Paragraph 29 - Recreation Facilities of the Sixth Amendment of the Condominium Association; and Paragraph 29 - Recreation Facilities of the First Amendment to the Maintenance Corp. Currently, the Maintenance Corp's Paragraph 29 of the First Amendment only refers to Sussex County Tax Parcel No. 334-13.00-1743.00 and not Tax Parcel No. 334-13-1745.00 which includes Canal Park where Item 15 of Ordinance 1700 is referenced.

As the Grande at Canal Pointe is one RPC will the above modifications to both Association's Declarations be required by Sussex County, DE Planning and Zoning (P&Z) as removal of Item 15 of Ordinance 1700 will create a new recreation facility/amenity that is not included in the Declarations? I inquire as meetings of the Canal Park Committee, which does not include any condominium owners, have resulted in strong conversation to restrict or charge condominium owners from Canal Park that includes Item 15 of Ordinance 1700. If P&Z will require a modification to both Association's Declarations that will answer my second question.

If P&Z does not require modifications to both Association's Declarations how can the Condominium Association restrict use of a specific recreation of Tax Parcel No. 334-13.00-1749, the tennis court? I find myself at a crossroads as an owner to approve the removal of Item 15 from Ordinance 1700 on the site plan for the Grande at Canal Pointe when I may be restricted or charged. Then as president of the Condominium Association I have a responsibility to advise all owners of the possible restriction and charges that may accompany an approval to remove Item 15.

Your responses to these questions and any input is greatly appreciated, this will enable me to educate Condominium Association owners prior to the public hearing.

Thank you,

Ted Tymczyszyn  
Grande at Canal Pointe Condominium Association  
President



## FW: Notice for Public Hearing to Amend Ordinance 1700 to remove restriction on boat ramps and other water related recreational facilities

Melissa Donnelly <MelissaGCP@comcast.net>

Mon 4/5/2021 8:27 AM

To: Ted Tymczyszyn <ted\_tymczyszyn@hotmail.com>

Cc: Kent Larson <kent@aerialphotographers.us>

Good morning Ted,

We are taking this project one step at a time, and at this point the HOA Board is focused on getting the Ordinance amended so that we can explore adding a water related recreational structure, like a dock or pier in Canal Park. There are two hearing hurdles we have to clear before the restriction is removed. PZ will make a recommendation to the County Council then the council will have a hearing before making a decision which may or may not occur during the council hearing.

If we are successful in getting the ordinance amended, then we can start the process of further exploring plans for a project. At this point due to COVID related delays, our Army Corps and DNREC permits have expired, so we are back to ground zero. There have been no official discussions about security, access, type of structure to be built, cost, insurance, etc., because it is all moot while the site plan restriction is in place. Those discussions will be phase 2, if we are able to get the site plan restriction removed. Obviously, if we can't get the restriction lifted, there is no point in having a conversation about COA access or cost sharing. Of course, if the COA were to oppose, I can only assume that will not be viewed positively if we get to phase 2. I hope that helps you better understand where things stand. Kent and I would be happy to meet to answer any further questions.

Best Regards,  
Melissa

Sent from [Mail](#) for Windows 10

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**From:** [Ted Tymczyszyn](#)

**Sent:** Saturday, April 3, 2021 10:01 AM

**To:** [Melissa Donnelly](#)

**Subject:** Re: Notice for Public Hearing to Amend Ordinance 1700 to remove restriction on boat ramps and other water related recreational facilities

Melissa,

With a confirmed Sussex County Planning and Zoning Commissioners meeting we need to have the discussion concerning access to Canal Park from the COA perspective. Past discussions of the Canal Park Committee included restricting use to the COA or use by fee to the COA.

Questions from condo and townhome owners are being raised and I will need to draft a response to all owners. What is the current atmosphere for Condo and townhome owners

use of Canal Park of the Board and homeowners? Are either of the above past sentiments in consideration?

If the decision is anything other than available use, I have a responsibility to advise owners of the decision. If an agreement is not reached, I must advise owners as well prior to the Commissioners meeting and scheduled hearing.

Ted

<95F53421CFDB462B9C7458EEE8FE8485.png>

**From:** Melissa Donnelly <MelissaGCP@comcast.net>

**Sent:** Wednesday, March 31, 2021 11:23 PM

**To:** Ted Tymczyszyn <ted\_tymczyszyn@hotmail.com>; Helaine Catalano <hbcatalano@gmail.com>

**Cc:** Kent Larson <kent@aerialphotographers.us>

**Subject:** Notice for Public Hearing to Amend Ordinance 1700 to remove restriction on boat ramps and other water related recreational facilities

Hi Ted and Helaine,

We just noticed that the sign was posted related to the Notice of Public Hearing to Amend Ordinance 1700 to remove restriction on boat ramps and other water related recreational facilities. You may receive questions, so I wanted to make you aware of the sign. Also, Kent Larson has been taking the lead on getting us prepared for the upcoming meetings, so I ccd Kent on this message. Up until today, I was not sure if P&Z would keep us on the schedule for April 22 and I had not heard about the date for the County Council hearing until the sign. Looks like things are finally progressing.

If you have any questions, please let us know.

Melissa

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9667

BK: 3772 PG: 231

THE GRANDE AT CANAL  
POINTE CONDOMINIUM  
PLAT BOOK 105, PAGE 75, as  
amended

Tax Parcel Nos.

3-34-13.00-334.00 (Parcel A),

3-34-13.00-1748.00 (Parcel B), and

3-34-13.00-1749.00 (Parcel C)

PREPARED BY and RETURN TO:

Samuel J. Frabizzio, Esquire

1300 N. Grant Avenue

Suite 200

Wilmington, DE 19806

**SIXTH AMENDMENT TO  
DECLARATION ESTABLISHING A PLAN FOR CONDOMINIUM  
OWNERSHIP WITH PREMISES SITUATED IN LEWES AND REHOBOTH  
HUNDRED, SUSSEX COUNTY, DELAWARE PURSUANT TO THE UNIT  
PROPERTY ACT OF THE STATE OF DELAWARE FOR  
THE GRANDE AT CANAL POINTE CONDOMINIUM**

WHEREAS, D. R. Horton, Inc. – New Jersey, a Delaware corporation established a Plan of Condominium Ownership of Property situate in Lewes and Rehoboth Hundreds, Sussex County, Delaware known as The Grande at Canal Pointe Condominium as shown on the Record Plan of Canal Point Residential Planned Community dated June 2004 as prepared by Davis, Bowen & Friedel, Inc. and recorded in the Office of the Recorder of Deeds in and for Sussex County, Delaware on October 15, 2004 in Plat Book 88, Page 163, as amended by Plat Book 114, Page 248 recorded on July 25, 2007 and as more fully described and depicted in The Grande at Canal Pointe Condominium Declaration Plan prepared by Davis, Bowen & Friedel, Inc. and Feinberg & Associates, P.C., recorded on May 23, 2006 in Plat Book 105, Page 75, as amended [(Declaration Plan Amendment No. 1 dated July 26, 2006, as prepared by Davis, Bowen & Friedel, Inc., and filed for record in the Office aforesaid, in Plat Book 107, Page 2, as further amended by Declaration Plan Amendment No. 2 dated September 18, 2006, as prepared by Davis, Bowen & Friedel, Inc., and filed for record in the Office aforesaid, in Plat Book 108, Page 66, as further amended by Declaration Plan Amendment No. 3 dated October 2, 2006, as prepared by Davis, Bowen & Friedel, Inc., and filed for record in the Office aforesaid, in Plat Book 110, Page 74, as further amended by Declaration Plan Amendment No. 4 dated October 12, 2006, as prepared by Davis, Bowen & Friedel, Inc., and filed for record in the Office aforesaid, in Plat Book 109, Page 128, as further amended by Declaration Plan Amendment No. 5 dated September 26, 2007, as prepared by Davis, Bowen & Friedel, Inc., and filed for record in the Office aforesaid, in Plat Book 116, Page 312, as further amended by Declaration Plan Amendment No. 6 dated September 26, 2007, as prepared by Davis, Bowen & Friedel, Inc., and filed for record in the Office aforesaid, in Plat Book 122, Page 25, as further amended by Declaration Plan Amendment No. 7 dated

November 7, 2007, as prepared by Davis, Bowen & Friedel, Inc., and filed for record in the Office aforesaid, in Plat Book 131, Page 24, as further amended by Declaration Plan Amendment No. 8 dated November 7, 2007, as prepared by Davis, Bowen & Friedel, Inc., and filed for record in the Office aforesaid, in Plat Book 117, Page 277, as further amended by Declaration Plan Amendment No. 9 dated April 28, 2009, as prepared by Davis, Bowen & Friedel, Inc., and filed for record in the Office aforesaid, in Plat Book 131, Page 28,)] and as may hereafter be amended and as such development rights are further provided by the Declaration Establishing a Plan for Condominium Ownership for The Grande at Canal Pointe Condominium recorded on May 23, 2006 in Book 3313, Page 43, as amended [(First and Confirmatory Amendment dated December 28, 2007 and filed for record in the Office aforesaid in Book 3536, Page 144, as further amended by Second Amendment dated July 30, 2008 and filed for record in the Office aforesaid in Book 3603, Page 106, as further amended by Third Amendment dated September 23, 2008 and filed for record in the Office aforesaid in Book 3629, Page 141, as further amended by Fourth Amendment dated May 15, 2009 and filed for record in the Office aforesaid in Book 3676, Page 316, as further amended by Fifth Amendment dated January 13, 2010 and filed for record in the Office aforesaid in Book 3752, Page 87)]; and

WHEREAS, D. R. Horton, Inc. – New Jersey, a Delaware corporation by Special Warranty Deed dated September 30, 2008 and recorded on December 5, 2008 in the office of the Recorder of Deeds in and for Sussex County, Delaware in Book 3640, Page 16, as corrected by Corrective Deed dated August 25, 2009 and recorded in the Office aforesaid in Book 3705, Page 265, granted and conveyed unto BOH Canal Point DE, L. P., a Delaware limited partnership, all of the rights, title, interests, powers, privileges, benefits, duties and obligations relating to the Property; and

WHEREAS, CP Townhomes, LLC, a Delaware limited liability company and CP Rental, LLC, a Delaware limited liability company (jointly the “Co-Declarants”) under and pursuant to the Partial Assignment and Assumption of Rights and Obligations by and between BOH Canal Point DE, L.P., a Delaware limited partnership and the Co-Declarants effective August 27, 2009 and recorded in the Office of the Recorder of Deeds in and for Sussex County, Delaware in Book 3705, Page 320 (the “Partial Assignment”), as to the Property described in Exhibit “A” to the Partial Assignment and as to the Development Documents described in Exhibit “B” to the Partial Assignment acquired all rights, title, interests, powers, privileges, benefits, duties and obligations relating to the Property; and

WHEREAS, The Grande at Canal Pointe Condominium Association, Inc. pursuant to the unanimous consent of the members of the Board of Directors have unanimously approved a Resolution (copy attached) approving the stated amendment herein by CP Townhomes, LLC and CP Rental, LLC and directing those organizations to execute and record this Sixth Amendment to the Condominium Declaration.

**WITNESSETH**

CP Townhomes, LLC and CP Rental, LLC hereby amend and confirm the Declaration of The Grande at Canal Pointe Condominium as follows:

I. The following is added as Paragraph 29:

**"29. Recreation Facilities. Notwithstanding any other provisions to the contrary that may exist in any of the herein referenced Condominium Documents, as may hereafter be amended and/or the Canal Point Record Plan, hereafter, all Owners of Single Family Lots/Homes located in the Canal Point Subdivision are hereby granted an easement to use the Recreation Facilities located on Condominium Area Parcel C (Sussex County Tax Parcel No. 3-34-13-00-1749.00) without obligation on the part of any such Single Family Lot Owners to contribute to the operation and/or maintenance cost of the Recreation Facilities. Each Single Family Lot Owner shall have a right and easement of enjoyment in and to the Recreation Facilities and such easement shall be appurtenant to and shall be a covenant that burdens and runs with title to every Condominium Unit constructed and hereafter to be constructed as shown on the Canal Point Record Plan. With respect to the use of the Recreation Facilities, every Single Family Lot Owner shall be subject to any and all use provisions of the Condominium Documents recited herein and as may hereafter be amended and any and all Rules and Regulations which may have been enacted by any predecessor in interest of or by CP Townhomes, LLC, a Delaware limited liability company, CP Rental, LLC, a Delaware limited liability company and/or The Grande at Canal Pointe Condominium Association, Inc., as presently exists and as may hereafter be amended.**

Each Single Family Lot Owner shall exercise the granted use privileges herein at their own risk, and, irrespective of any negligence of CP Townhomes, LLC, CP Rental, LLC (jointly "Declarants") and The Grande at Canal Pointe Condominium Association, Inc. (the "Association"), each Single Family Lot Owner shall indemnify and hold Declarants and Association harmless from and against any and all liability for, to the extent actual and tangible, damages, costs, losses, and expenses result therefrom, or rise out of, or in any way connected with the use of the Recreation Facilities Parcel by any such Single Family Lot Owner, or the failure on the part of the Single Family Lot Owner to perform fully all and singular the Single Family Lot Owner's covenants contained herein, including but not limited to any liability for personal injuries, loss of life or property damage."

- 2. Except as amended by this Sixth Amendment, all other terms and conditions of the Condominium Declaration, as amended, shall remain in full force and effect.

IN WITNESS WHEREOF, the said CP Townhomes, LLC, a Delaware limited liability company and CP Rental, LLC, a Delaware limited liability company, have caused their names to be hereunto set and the common and corporate seal of said companies to be hereunto affixed, the day and year aforesaid.

CP Townhomes, LLC, a Delaware limited liability company

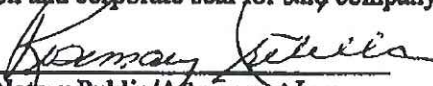
By:  (SEAL)  
 Louis J. Capano, III  
 AUTHORIZED MEMBER

CP Rental, LLC, a Delaware limited liability company

By:  (SEAL)  
 Louis J. Capano, III  
 AUTHORIZED MEMBER

STATE OF DELAWARE )  
 )  
 NEW CASTLE COUNTY )

BE IT REMEMBERED, that on this 19<sup>th</sup> day of MARCH, 2010 personally came before me, the Subscriber, Louis J. Capano, III, Authorized Member of CP Rental, LLC, a limited liability company of the State of Delaware and CP Townhomes, LLC a limited liability company of the State of Delaware, known to me personally to be such, and acknowledged this to be his act and deed and the act and deed of said company, that the signature of the Authorized Member is in his own proper handwriting and the seal affixed is the common and corporate seal for said company.

  
 Notary Public/Attorney at Law

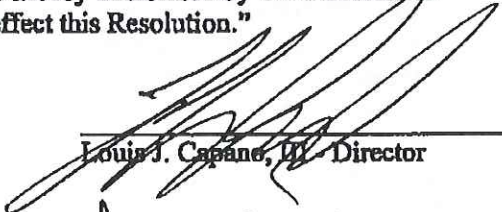




**SPECIAL MEETING OF THE BOARD OF DIRECTORS OF THE GRANDE AT  
CANAL POINTE CONDOMINIUM ASSOCIATION, INC.**

At a Special Meeting of the Board of Directors of The Grande at Canal Pointe Condominium Association, Inc. (the "Corporation") held on March 10, 2010, at which were present all of the Directors, the following Resolution was unanimously adopted:

RESOLVED, that the Corporation hereby approves that the Owners of all Single Family Lots/Homes located in The Canal Point Subdivision shall be entitled to use the Recreation Facilities as constructed on Condominium Area Parcel C (Sussex County Tax Parcel No. 3-34-13.00-1749.00) as shown on the Record Plan of Canal Point, for the purposes authorized (a) by the Record Plan, (b) by the Declaration Establishing a Plan for Condominium Ownership of Premises Situate in Rehoboth and Lewes Hundreds, Sussex County, Delaware, Pursuant to the Unit Property Act of the State of Delaware for The Grande at Canal Pointe Condominium, as amended (the "Condominium Declaration"), (c) by the Code of Regulations for The Grande at Canal Pointe Condominium, as amended (the "Code of Regulations"), (d) by The Grande at Canal Pointe Condominium Declaration Plan, as amended (the "Declaration Plan") and (e) by the By-Laws and the Rules and Regulations of the Corporation, in consideration of Canal Point, LLC, a Delaware limited liability company (the "Developer") and The Grande at Canal Pointe Maintenance Corporation (the "Maintenance Corporation") authorizing the use of the Recreation Facilities Parcel (Sussex County Tax Parcel No. 3-34-13.00-1743.00) located in the Single Family Section of the Canal Point Subdivision by all Condominium Unit Owners. The Officers of the Corporation are hereby authorized by the Directors to execute any and all documents necessary to effect this Resolution."

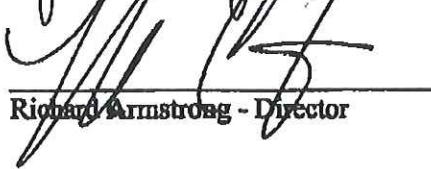
  
\_\_\_\_\_  
Louis J. Capane, III - Director

**RECEIVED**

APR 06 2010

**ASSESSMENT DIVISION  
OF SUSSEX COUNTY**

  
\_\_\_\_\_  
Jon Long - Director

  
\_\_\_\_\_  
Richard Armstrong - Director

Recorder of Deeds  
John F. Brady  
Apr 06, 2010 09:30A  
Sussex County  
Doc. Surcharge Paid



*Recorded  
April 6, 2010  
Book 3772, Page 237*

Canal Point Subdivision  
Plat Book 88, Page 163  
Plat Book 114, Page 248  
Plat Book 140, Page 50  
Tax Parcel Nos.: See Schedule Attached  
Prepared By and  
Return to: Samuel J. Frabizzio, Esquire  
1300 North Grant Avenue  
Suite 200  
Wilmington, DE 19806

**AMENDMENT NO. 1**  
**TO**  
**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**  
**FOR CANAL POINT SUBDIVISION**

WHEREAS, Canal Point, LLC, a Delaware limited liability company (hereinafter referred to as "Developer") executed and recorded a certain Declaration of Covenants, Conditions and Restrictions for Canal Point Subdivision dated May 13, 2008 and recorded on May 15, 2008 in the Office of the Recorder of Deeds in and for Sussex County, State of Delaware in Book 3578, Page 127 (the "DOR"); and

WHEREAS, Developer previously conveyed title to Sussex County Tax Parcel No. 3-34-13.00-1743.00 (the "Recreation Facilities Parcel") to The Grande at Canal Pointe Maintenance Corporation, a Delaware Non-Profit and Non-Stock corporation (the "Maintenance Corporation") by Deed dated February 27, 2009 and recorded in the Office of the Recorder of Deed in and for Sussex County, State of Delaware at Book 3659, Page 271 as such Recreation Facilities Parcel is shown on the Record Plan of Canal Point dated June 2004 as Revised by Davis, Bowen and Friedel, Inc. and recorded in the Office of the Recorder of Deeds in and for Sussex County, Delaware on October 15, 2004 in Plat Book 88, Page 163, as amended by Plat Book 114, Page 248, as amended by Plat Book 140, Page 50 (the "Canal Point Record Plan"); and

WHEREAS, Developer and the Maintenance Corporation desire that the Developer amend the DOR to provide that the Recreation Facilities Parcel can be used for the designated purposes as provided by the Canal Point Record Plan and the DOR by all Owners of Condominium Units located in The Grande at Canal Pointe Condominium as shown on the Canal Point Record Plan in consideration of The Grande at Canal Pointe Condominium allowing all Owners of Single Family Lots/Homes as shown on the Canal Point Record Plan and subject to the DOR the corresponding right to use for the purposes authorized by the Canal Point Record Plan the Recreation Facilities constructed within the land area of The Grande at Canal Pointe Condominium as shown on the Canal Point Record Plan; and

WHEREAS, the Maintenance Corporation pursuant to the unanimous consent of the Members of the Board of Directors of that Maintenance Corporation have unanimously approved a Resolution (copy attached) authorizing this intended purpose and authorizing and directing the Developer to execute and record this First Amendment to the DOR.

WITNESSETH

For and in consideration of the mutual covenants, promises and other conditions contained herein, the DOR is amended as follows:

1. The following is added as Paragraph 29:

“29. Recreation Facilities Parcel. Notwithstanding any other provisions herein to the contrary, as to the Recreation Facilities Parcel identified above, for all authorized purposes provided by the Canal Point Record Plan and in the DOR, as defined above, hereafter, all Owners of Condominium Units located in The Grande at Canal Pointe Condominium are hereby granted an easement to use the Recreation Facilities Parcel without obligation on the part of any such Condominium Unit Owner to contribute to the Operation and Maintenance Cost of the Recreation Facilities Parcel. Each Condominium Unit Owner shall have a right and easement of enjoyment in and to the Recreation Facilities Parcel and such easement shall be appurtenant to and shall be a covenant that burdens and runs with title to every Single Family Lot as shown on the Canal Point Record Plan. With respect to the use of the Recreation Facilities Parcel, every Condominium Unit Owner shall be subject to any and all use provisions of the DOR, as amended, the Canal Point Record Plan, as amended and any and all Rules and Regulations enacted by the Developer and/or the Maintenance Corporation, as presently exist and as may hereafter be amended.

Each Condominium Unit Owner shall exercise the granted use privileges herein at their own risk, and, irrespective of any negligence of Developer and/or Maintenance Corporation, each Condominium Unit Owner shall indemnify and hold Developer and Maintenance Corporation harmless from and against any and all liability for, to the extent actual and tangible, damages, costs, losses, and expenses result therefrom, or rise out of, or in any way connected with the use of the Recreation Facilities Parcel by any such Condominium Unit Owner, or the failure on the part of the Condominium Unit Owner to perform fully all and singular the Condominium Unit Owner’s covenants contained herein, including but not limited to any liability for personal injuries, loss of life or property damage.”

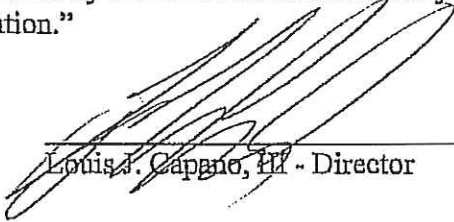


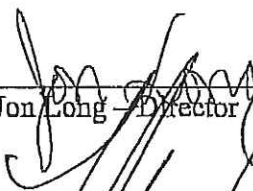


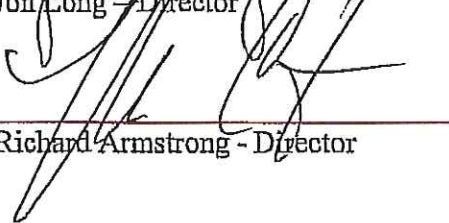
**SPECIAL MEETING OF THE BOARD OF DIRECTORS OF THE GRANDE AT  
CANAL POINTE MAINTENANCE CORPORATION**

At a Special Meeting of the Board of Directors of The Grande at Canal Pointe Maintenance Corporation (the "Corporation") held on March 10, 2010, at which were present all of the Directors, the following Resolution was unanimously adopted:

RESOLVED, that the Corporation hereby approves that the Owners of Condominium Units located in The Grande At Canal Pointe Condominium shall be entitled to use the Recreation Facilities Parcel (Sussex County Tax Parcel No. 3-34-13.00-1743.00) as shown on the Record Plan of Canal Point, for the purposes authorized by the Record Plan in the recorded Declaration of Covenants, Conditions and Restrictions for Canal Point Subdivision and/or the Rules and Regulations of the Corporation in consideration of The Grande at Canal Pointe Condominium authorizing the use of the Recreation Facilities located on the Land Area of The Grande at Canal Pointe Condominium by Owners of Single Family Lots/Homes as shown on the Record Plan. The Officers of the Corporation are hereby authorized by the Directors to execute any and all documents necessary to effect this Resolution."

  
\_\_\_\_\_  
Louis J. Cappio, III - Director

  
\_\_\_\_\_  
Jon Long - Director

  
\_\_\_\_\_  
Richard Armstrong - Director

CANAL POINT

294 SINGLE FAMILY LOTS

<u>Lot Nos.</u>	<u>Parcel Nos.</u>
1	3-34-13.00-1448.00
2	3-34-13.00-1449.00
3	3-34-13.00-1450.00
4	3-34-13.00-1451.00
5	3-34-13.00-1452.00
6	3-34-13.00-1453.00
7	3-34-13.00-1454.00
8	3-34-13.00-1455.00
9	3-34-13.00-1456.00
10	3-34-13.00-1457.00
11	3-34-13.00-1458.00
12	3-34-13.00-1459.00
13	3-34-13.00-1460.00
14	3-34-13.00-1461.00
15	3-34-13.00-1462.00
16	3-34-13.00-1463.00
17	3-34-13.00-1464.00
18	3-34-13.00-1465.00
19	3-34-13.00-1466.00
20	3-34-13.00-1467.00
21	3-34-13.00-1468.00
22	3-34-13.00-1469.00
23	3-34-13.00-1470.00
24	3-34-13.00-1471.00
25	3-34-13.00-1472.00
26	3-34-13.00-1473.00
27	3-34-13.00-1474.00
28	3-34-13.00-1475.00
29	3-34-13.00-1476.00
30	3-34-13.00-1477.00
31	3-34-13.00-1478.00
32	3-34-13.00-1479.00
33	3-34-13.00-1480.00
34	3-34-13.00-1481.00
35	3-34-13.00-1482.00
36	3-34-13.00-1483.00
37	3-34-13.00-1484.00
38	3-34-13.00-1485.00

39	3-34-13.00-1486.00
40	3-34-13.00-1487.00
41	3-34-13.00-1488.00
42	3-34-13.00-1489.00
43	3-34-13.00-1490.00
44	3-34-13.00-1491.00
45	3-34-13.00-1492.00
46	3-34-13.00-1493.00
47	3-34-13.00-1494.00
48	3-34-13.00-1495.00
49	3-34-13.00-1496.00
50	3-34-13.00-1497.00
51	3-34-13.00-1498.00
52	3-34-13.00-1499.00
53	3-34-13.00-1500.00
54	3-34-13.00-1501.00
55	3-34-13.00-1502.00
56	3-34-13.00-1503.00
57	3-34-13.00-1504.00
58	3-34-13.00-1505.00
59	3-34-13.00-1506.00
60	3-34-13.00-1507.00
61	3-34-13.00-1508.00
62	3-34-13.00-1509.00
63	3-34-13.00-1510.00
64	3-34-13.00-1511.00
65	3-34-13.00-1512.00
66	3-34-13.00-1513.00
67	3-34-13.00-1514.00
68	3-34-13.00-1515.00
69	3-34-13.00-1516.00
70	3-34-13.00-1517.00
71	3-34-13.00-1518.00
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73	3-34-13.00-1520.00
74	3-34-13.00-1521.00
75	3-34-13.00-1522.00
76	3-34-13.00-1523.00
77	3-34-13.00-1524.00
78	3-34-13.00-1525.00
79	3-34-13.00-1526.00
80	3-34-13.00-1527.00
81	3-34-13.00-1528.00
82	3-34-13.00-1529.00
83	3-34-13.00-1530.00
84	3-34-13.00-1531.00

85	3-34-13.00-1532.00
86	3-34-13.00-1533.00
87	3-34-13.00-1534.00
88	3-34-13.00-1535.00
89	3-34-13.00-1536.00
90	3-34-13.00-1537.00
91	3-34-13.00-1538.00
92	3-34-13.00-1539.00
93	3-34-13.00-1540.00
94	3-34-13.00-1541.00
95	3-34-13.00-1542.00
96	3-34-13.00-1543.00
97	3-34-13.00-1544.00
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Recorder of Deeds  
John F. Brady  
Apr 06, 2010 09:30A  
Sussex County  
Doc. Surcharge Paid



Norma Lee Burton Derrickson  
49 Tidewaters  
Rehoboth Beach, DE 19971

Sussex County Planning & Zoning  
2 The Circle  
P.O. Box 417  
Georgetown, DE 19947

RECEIVED

JUN 04 2021

SUSSEX COUNTY  
PLANNING & ZONING

June 02 2021

I am writing concerning C/Z/1926 - Townhomes, LLC (Canal Point RPC) consisting of 617 units.

I am against any rezoning or approval of pier ,docks, boat ramps or recreational facilities for the canal.

The canal is dangerously shallow at low tide with barely enough water for one boat. The canal needs to be dredged to create a safe waterway for current water craft. Increased the safety concerns for residents living along the canal!

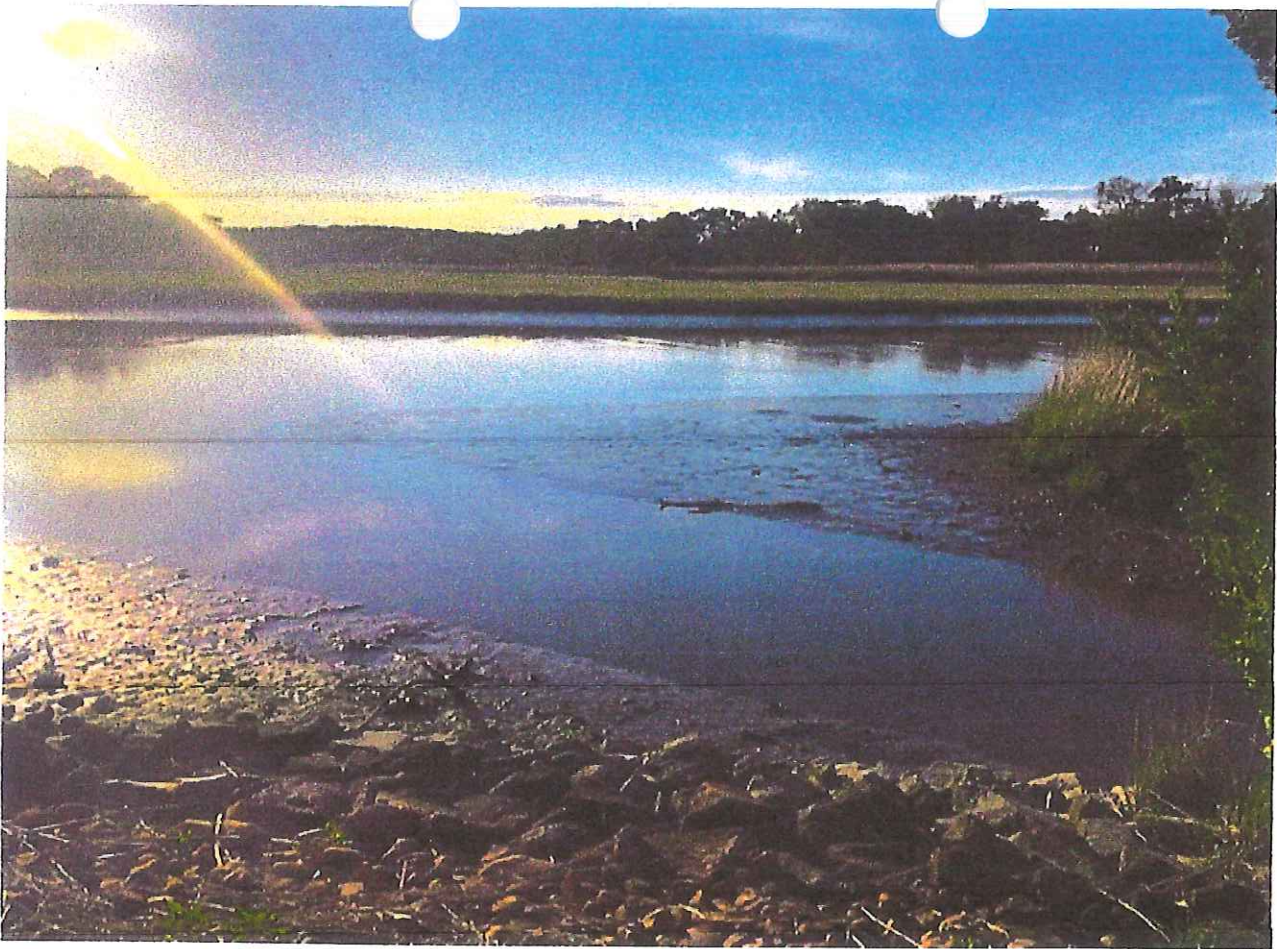
Who will be responsible for controlling traffic, insuring safety and proper boat rules? Who is policing for proper water safety and litter control?

I am against approval to amend conditions at Canal Point for water access.

Sincerely,

Norma Lee Burton Derrickson

Enclosed: Picture of Rehoboth and Lewes Canal



Rehoboth Lewes Canal  
Mud Flats

05/18/2021

**Porter K. Wheeler  
79 Tidewaters Road  
Henlopen Acres, DE 19971**

June 8, 2021

Sussex County Council  
2 The Circle P.O. Box 589  
Georgetown, Delaware 19957

RE: The Grande at Canal Pointe – Application #C/Z 1926

Dear Sussex County Council Members:

Our residence at 79 Tidewaters, Henlopen Acres, backs onto a section of the Rehoboth-Lewes Canal near and virtually across from the proposed installation of a “recreational dock/pier.” We urge denial of this application because of its numerous adverse effects that would detract from the peaceful enjoyment of our property.

We placed trust in the existing conditions for approval of the development imposed by the Council, and specifically Condition #15, which reads as follows: “No piers, docks, boat ramps, or other water related recreational facility shall be permitted.” To now find the Council considering permitting the installation of virtually public docking facilities is very disturbing.

Among the negative impacts of this proposal are the following:

- Destruction of the natural buffer between the Subdivision and the Canal, including the protected wetlands along the western side of the Canal. Much clearing seems to already have occurred in that area.
- Excessive use of the proposed dockage facility seems highly likely, since a large number of homes (over 500) will have access. This is unlike nearby areas such as Canal Corkran where access is by a few individual households. I see nothing in the proposal addressing needed restrictions on auto and people access to govern usage of the dockage. This could create a real mess and spillover to adjacent properties.
- Further, because Canal waterway traffic is virtually unregulated, any proposed limits against motorized watercraft will be difficult to enforce.
- Disturbance of wildlife habitat including the osprey and eagles that frequent the area and have already lost much of their potential nesting area. The Development itself has driven throngs of deer to cross the Canal in search of food and nesting.

This proposal is especially disingenuous in that the Development HOA proposes to build dockage thru and over protected wetlands in order to “protect” them from otherwise undesirable use by the same Canal Pointe residents. In other words, they are going to permit boating access in any event.

For these and other reasons, I beg the Council to **deny** the Application.

Sincerely, *Porter K. Wheeler L/S*

REPLY TO  
ATTENTION OF

**DEPARTMENT OF THE ARMY**  
PHILADELPHIA DISTRICT CORPS OF ENGINEERS  
WANAMAKER BUILDING, 100 PENN SQUARE EAST  
PHILADELPHIA, PENNSYLVANIA 19107-3390

OCT 02 2017

Regulatory Branch  
Applications Section I

SUBJECT: CENAP-OP-R-2017-537-85 (LOP)  
DDNREC #:  
Lat./Long.: 38.72540°N/-75.08925°W

Evelyn M. Maurmeyer, Ph.D.  
Coastal & Estuarine Research, Incorporated  
Marine Studies Complex  
Post Office Box 674  
Lewes, Delaware 19958

Dear Dr. Evelyn Maurmeyer:

This is in regard to your application on behalf of The Grande at Canal Pointe Maintenance Corporation for a Department of the Army permit dated July 7, 2017, under provision of Section 10 of the Rivers and Harbors Act of March 3, 1899. The Grande at Canal Pointe Corporation is authorized by the Secretary of the Army to install an 8' x 30' floating dock, a 10' x 6' floating pier, a 12' x 3' gangway and an 18' x 6' fixed pier in The Grande at Canal Pointe community, Tax Map Parcel Number 3-34-13.00-1745.00 on the Lewes and Rehoboth Canal in Rehoboth Beach, Sussex County, Delaware. This activity shall be conducted in accordance with the enclosed plans (Enclosure 1) and subject to the enclosed conditions (Enclosure 2). The stated purpose of this project is to provide a kayak/canoe launching facility for the residents in The Grande at Canal Pointe.

Carefully review all the terms and conditions of the Department of the Army permit and understand them fully. Performing any work not specifically authorized by the permit or failing to comply with its conditions may subject you and/or your contractor to the enforcement provisions of our regulations. If a contractor performs the work for you, both you and the contractor are responsible for assuring the work is done in conformance with the conditions and limitations of this permit. Please be sure the person who will do the work has read and understands the conditions of the permit.

This letter contains a proffered letter of permission for your proposed project. If you object to this decision, you may request an administrative appeal under Corps regulations at 33 CFR 331. Enclosed you will find a combined Notification of Appeal Process (NAP) fact sheet and Request for Appeal (RFA) form (Enclosure 3). If you request to appeal this decision, you must submit a completed RFA form to the North Atlantic Division Office at the following address:



Mr. James W. Haggerty  
Regulatory Program Manager (CENAD-PD-OR)  
U.S. Army Corps of Engineers  
Fort Hamilton Military Community  
301 General Lee Avenue  
Brooklyn, New York 11252-6700

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR Part 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by **DEC 04 2017**

It is not necessary to submit an RFA form to the Division Office if you do not object to the determination in this letter. Enclosed is your notice of authorization, ENG FORM 4336 (Enclosure 4), which must be conspicuously displayed at the site of work. The issuance of this permit does not obviate you from your responsibility to obtain any other Federal, State or local approvals required by law for this work.

This office shall be notified of the commencement and completion of the permitted work. To assist you in meeting this requirement, enclosed is a Notification/Certification of Work Commencement Form (Enclosure 5) for you to fill out and return to us at least 10 days prior to the time you intend to begin work. Similar notification is required each time any maintenance work is to be done under this permit. In addition, the enclosed Notification/ Certification of Work Completion/Compliance (Enclosure 6) should be signed and returned to this office within 10 days after the permitted work is completed. Also enclosed is a pre-addressed postal card (Enclosure 7) soliciting your comments on the processing of your permit. Any comments, positive or otherwise, on the procedures, timeliness, fairness, etc., may be made on this card. You may forward your comment card along with the signed Notification/Certification of Work Commencement Form.

Additional information concerning this permit may be obtained by writing to Michael D. Yost at the above address, by email at michael.d.yost@usace.army.mil or calling (267) 240-5278.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

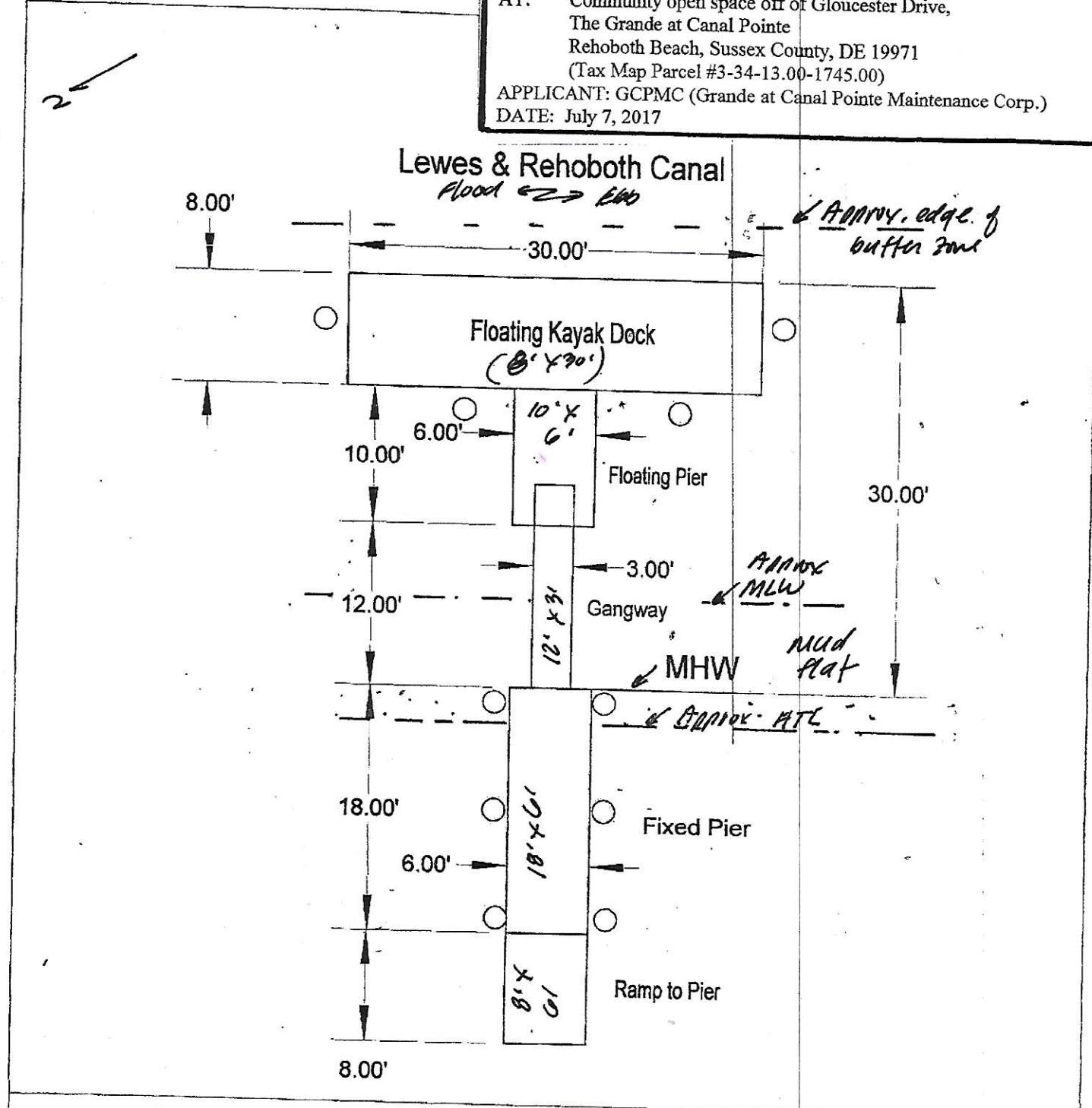
A handwritten signature in black ink, appearing to read "Edward E. Bonner". The signature is written in a cursive style with a large initial "E".

Edward E. Bonner  
Chief, Regulatory Branch  
for Kristen N. Dahle  
Lieutenant Colonel, Corps of Engineers  
District Commander

Enclosures

**PROPOSED COMMUNITY KAYAK/CANOE LAUNCH:  
 8' X 6' RAMP; 18' X 6' FIXED WALKWAY/PIER; 12' X 3' GANGWAY;  
 10' X 6' FLOATING PIER; AND 8' X 30' FLOATING DOCK**

IN: Lewes and Rehoboth Canal  
 AT: Community open space off of Gloucester Drive,  
 The Grande at Canal Point  
 Rehoboth Beach, Sussex County, DE 19971  
 (Tax Map Parcel #3-34-13.00-1745.00)  
 APPLICANT: GCPMC (Grande at Canal Point Maintenance Corp.)  
 DATE: July 7, 2017



Proposed Community Kayak Dock  
 Grande at Canal Point  
 41349 Gloucester Dr.  
 Rehoboth Beach, DE 19971

PRECISION MARINE CONSTRUCTION INC.  
 202 Woodbridge Hills  
 Rehoboth Beach, DE 19971  
 Scale: 1" = 10' Date: 06-08-2017

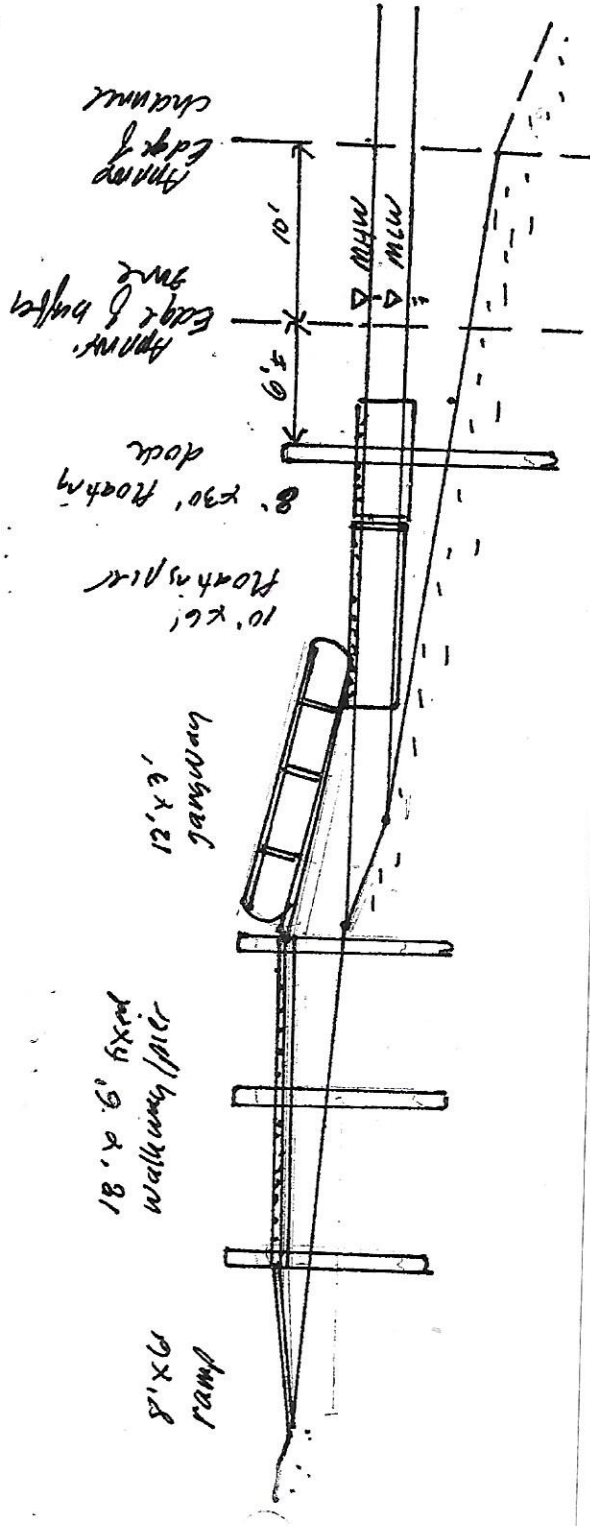
Figure 8. Plan view of proposed project (prepared by Precision Marine Construction, Inc.).

**PROPOSED COMMUNITY KAYAK/CANOE LAUNCH:**  
**8' X 6' RAMP; 18' X 6' FIXED WALKWAY/PIER; 12' X 3' GANGWAY;**  
**10' X 6' FLOATING PIER; AND 8' X 30' FLOATING DOCK.**

IN: Lewes and Rehoboth Canal  
 AT: Community open space off of Gloucester Drive,  
 The Grande at Canal Pointe  
 Rehoboth Beach, Sussex County, DE 19971  
 (Tax Map Parcel #3-34-13.00-1745.00)

APPLICANT: GCPMC (Grande at Canal Pointe Maintenance Corp.)  
 DATE: July 7, 2017

*LEWES AND REHOBOTH CANAL*



SCALE: 1" = 10' ±

Figure 9. Cross-section of proposed project (for permit application purposes only).

CONDITIONS FOR  
DEPARTMENT OF THE ARMY PERMITS

GENERAL CONDITIONS

1. The time limit for completing the work authorized ends on December 31, 2020. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided on page 3 of this document and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

SPECIAL CONDITIONS

1. All work performed in association with the above noted project shall be conducted in accordance with the project plan prepared by Precision Marine Construction Incorporated, dated June 8, 2017, entitled: *PROPOSED COMMUNITY KAYAK DOCK~GRANDE AT CANAL POINT~41349 GLAUCESTER DR.~REHOBOTH BEACH, DE 19971*, Figure 8 and the plan prepared by Coastal & Estuarine Research, Incorporated, dated July 7, 2017, entitled: *PROPOSED COMMUNITY KAYAK/CANOE LAUNCH:~8' X 6' RAMP; 18' X 6' FIXED WALKWAY/PIER; 12' X 3' GANGWAY;~ 10' X 6' FLOATING PIER; AND 8' X 30' FLOATING DOCK*, Figure 9.
2. Construction activities shall not result in the disturbance or alteration of greater than 0.007 acre of waters of the United States.
3. Any deviation in construction methodology or project design from that shown on the above noted drawings must be approved by this office, in writing, prior to performance of the work. All

modifications to the above noted project plans shall be approved, in writing, by this office. No work shall be performed prior to written approval of this office.

4. This office shall be notified at least 10 days prior to the commencement of authorized work by completing and signing the enclosed *Notification/ Certification of Work Commencement Form* (Enclosure 5). This office shall also be notified within 10 days of the completion of the authorized work by completing and signing the enclosed *Notification/Certification of Work Completion/Compliance Form* (Enclosure 6). All notifications required by this condition shall be in writing and shall be transmitted to this office by registered mail. Oral notifications are not acceptable. Similar notification is required each time maintenance work is to be done under the terms of this Corps of Engineers permit.

5. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

6. Representatives of the U.S. Army Corps of Engineers shall be permitted to inspect the project during its phase of construction, and to collect any samples, or to conduct any tests deemed necessary.

7. The permittee is responsible for ensuring that the contractor and/or workers executing the activity(s) authorized by this permit have knowledge of the terms and conditions of the authorization and that a copy of the permit document is at the project site throughout the period the work is underway.

8. The Special Conditions imposed by the Delaware Department of Natural Resources and Environmental Control (DDNREC) on your DDNREC Section 401 WQC and/or DDNREC CZM concurrence shall also be conditions to this Department of the Army permit.

9. Prior to construction, the permittee shall obtain a Real Estate instrument from the Baltimore District, U.S. Army Corps of Engineers, ATTN: CENAB-RE-C, P.O. Box 1715, Baltimore, Maryland (410) 962-4649. All work shall be performed in accordance with the terms and conditions of the Real Estate instrument.

10. Boats moored to the authorized structure shall not encroach or extend into the buffer of the Federal navigation channel as depicted on the approved plans.

11. If in the opinion of the District Commander or his authorized representative, any portion of the dock or boat moored thereto interfere at any time with Federal dredging operations or general navigation, the permittee shall at his own expense take any and all steps to eliminate such interference for whatever duration is deemed necessary.

12. This permit does not authorize any dredging activities.

13. This permit does not authorize any wetland impacts.
14. This permit does not authorize any discharges of dredged or fill material into waters of the United States.
15. The mechanical equipment used to execute the work authorized shall be operated in such a way as to minimize turbidity that could degrade water quality and adversely affect aquatic plant and animal life.
16. The disposal of trees, brush and other debris in any stream corridor, wetland or surface water is prohibited.
17. This permit does not obviate the permittee from obtaining any State or local assent required by law for the activity authorized.

#### FURTHER INFORMATION

1. Congressional Authorities. You have been authorized to undertake the activity described above pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
2. Limits of the Authorization.
  - a. This permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.
  - b. This permit does not grant any property rights or exclusive privileges.
  - c. This permit does not authorize any injury to the property or rights of others.
  - d. This permit does not authorize interference with any existing or proposed Federal project.
3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:
  - a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
  - b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
  - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
  - d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data. The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See Item 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision. Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General Condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

7. Transference. When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

\_\_\_\_\_  
(Transferee)

\_\_\_\_\_  
(Date)





This notice of authorization must be conspicuously displayed at the site of work.

United States Army Corps of Engineers

OCT 02 2017

A permit to install an 8'x30' floating dock, a 10'x6' floating pier, a 12'x3' gangway and an 18'x6' fixed pier

at The Grande at Canal Pointe Community, Sussex County Delaware

has been issued to Evelyn M. Maurmeyer on OCT 02 2017

Address of Permittee Post Office Box 674, Lewes, Delaware 19958

Permit Number

CENAP-OP-R-2017-0537-85

Edward E. Bonner  
Chief, Regulatory Branch

**District Commander**

for: Kristen N. Dahle  
Lieutenant Colonel, US Army  
District Commander

(Proponent: DAEN-CWO)

NOTIFICATION/CERTIFICATION OF WORK COMMENCEMENT FORM

Permit Number: CENAP-OP-R-2017-537-85 (LOP)  
State Permit #:  
Name of Permittee: Grande at Canal Pointe Maintenance Corporation  
Project Name: Grande at Canal Pointe Dock SX  
Waterway: Lewes and Rehoboth Canal  
County: Sussex State: Delaware  
Compensation/Mitigation Work Required: Yes  No

TO: U.S. Army Corps of Engineers, Philadelphia District  
Wanamaker Building - 100 Penn Square East  
Philadelphia, Pennsylvania 19107-3390  
Attention: CENAP-OP-R

I have received authorization to install an 8' x 30' floating dock, a 10' x 6' floating pier, a 12' x 3' gangway and an 18' x 6' fixed pier in The Grande at Canal Pointe community, Tax Map Parcel Number 3-34-13.00-1745.00 on the Lewes and Rehoboth Canal in Rehoboth Beach, Sussex County, Delaware.

The work will be performed by:

Name of Person or Firm \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

I hereby certify that I have reviewed the approved plans, have read the terms and conditions of the above referenced permit, and shall perform the authorized work in strict accordance with the permit document. The authorized work will begin on or about \_\_\_\_\_ and should be completed on or about \_\_\_\_\_.

Please note that the permitted activity is subject to compliance inspections by the Army Corps of Engineers. If you fail to return this notification form or fail to comply with the terms or conditions of the permit, you are subject to permit suspension, modification, revocation, and/or penalties.

\_\_\_\_\_  
Permittee (Signature and Date)

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Contractor (Signature and Date)

\_\_\_\_\_  
Telephone Number

NOTE: This form shall be completed/signed and returned to the Philadelphia District Office a minimum of 10 days prior to commencing work.

NOTIFICATION/CERTIFICATION OF WORK COMPLETION/COMPLIANCE FORM

Permit Number: CENAP-OP-R-2017-537-85 (LOP)  
State Permit #:  
Name of Permittee: Grande at Canal Pointe Maintenance Corporation  
Name of Contractor:  
Project Name: Grande at Canal Pointe Dock SX  
County: Sussex State: Delaware  
Waterway: Lewes and Rehoboth Canal

Within 10 days of completion of the activity authorized by this permit, please sign this certification and return it to the following address:

U.S. Army Corps of Engineers, Philadelphia District  
Wanamaker Building - 100 Penn Square East  
Philadelphia, Pennsylvania 19107-3390  
Attention: CENAP-OP-R

Please note that the permitted activity is subject to a compliance inspection by an Army Corps of Engineers representative. If you fail to return this notification form or fail to perform work in compliance with the permit, you are subject to administrative, civil and/or criminal penalties. Further, the subject permit may be suspended or revoked.

The authorized work was commenced on \_\_\_\_\_.

The authorized work was completed on \_\_\_\_\_.

I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and conditions of the above noted permit.

\_\_\_\_\_  
Signature of Contractor

\_\_\_\_\_  
Signature of Permittee

Address: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_  
Telephone Number: \_\_\_\_\_

\_\_\_\_\_  
Telephone Number: \_\_\_\_\_



STATE OF DELAWARE  
**DEPARTMENT OF TRANSPORTATION**

800 BAY ROAD  
P.O. BOX 778  
DOVER, DELAWARE 19903

NATHAN HAYWARD III  
SECRETARY

May 4, 2004

Mr. Lawrence B. Lank  
Director  
Sussex County Planning & Zoning Commission  
P.O. Box 417  
Georgetown, DE 19947

Dear Mr. Lank:

The Department has completed its review of the Traffic Impact Study (TIS) prepared by Ramcsh C. Batta, P.A. (Batta) for the Canal Point mixed-use development dated April 7, 2004. The development is proposed to be located on a 180.6-acre parcel west of Rehoboth Beach. The development would be composed of 283 single-family detached houses, 82 townhouses, 252 condominiums, 4.5 acres of commercial space, a 1.5 acres senior center, and 5 acres for an undetermined use by local government. Access to the development would be provided from Canal Crossing Boulevard, a new roadway, which would connect Holland Glade Road and Church Street. Batta prepared the report in a manner generally consistent with DelDOT's Rules and Regulations for Subdivision Streets. Details of our findings are enclosed.

The TIS analyzed an additional case, not included in the minutes of the TIS scoping meeting, namely Case 5, which recommended intersection improvements along Delaware Route 1. The key improvements recommended by Batta in that case are breaking the Delaware Route 1 median at Holland Glade Road, constructing southbound Delaware Route 1 and westbound Holland Glade Road left-turn lanes, and signaling the intersection. DelDOT is currently engaged in the Rehoboth Beach Area Improvement Program study, which is developing alternatives for improving transportation in the area. Additional signalized intersections in this already heavily traveled corridor are not an improvement under consideration. The existing traffic signals are already closely spaced, and the introduction of another signal would further degrade our ability to coordinate the signal timing. As a part of this TIS review we have not recommended these improvements be considered for the above reasons.

Similarly, we expect to implement improvements in this area, whichever alternative we select, relatively quickly. Depending on the complexity of the work, construction of various sections should start between 2005 and 2007. These improvements would eliminate the need for additional lanes on northbound Route 1 that Batta recommends. Therefore, we are not recommending the improvements that Batta recommends on Route 1 either.



12.00 3021332201 DELDOT PLANNING PAGE 03/26

Mr. Lawrence B. Lank  
May 4, 2004  
Page 2 of 3

Should the County choose to approve the Canal Point development, the following items should be incorporated into the site design and reflected on the record plan:

1) Prior to the issuance of building permits, the developer should be required to enter into an agreement with DelDOT, whereby the developer would fund all costs associated with a traffic signal at the Delaware Route 1A (Rehoboth Avenue) and Church Street intersection. The costs should include pedestrian signals, crosswalks and interconnection with other adjacent Delaware Route 1 traffic signals at DelDOT's discretion. DelDOT would install this signal at its discretion when it finds that the appropriate warrants from the Manual of Uniform Traffic Control Devices are met.

2) Prior to the issuance of certificates of occupancy, the developer should be required to design and build Canal Crossing Boulevard (CCB) from Corkran Boulevard to Holland Glade Road in a manner acceptable to DelDOT.

From Corkran Boulevard to Hebron Road, CCB should be designed and built as an extension of the existing road between Corkran Boulevard and Church Street.

From Hebron Road to Holland Glade Road, CCB should be designed and built to meet DelDOT's local road standards and include a five-foot bicycle lane in each direction, sidewalks on both sides, and crosswalks.

3) Prior to the issuance of certificates of occupancy, the developer should be required to improve Holland Glade Road between Route 1 and Canal Crossing Boulevard in a manner acceptable to DelDOT. These improvements should be designed to meet DelDOT's local road standards as nearly as possible within the existing right-of-way. They may include increasing lane widths and adding shoulders.

4) The plan should include street connections to Henlopen Keys and stub streets to adjacent lands that front on Holland Glade Road.

5) The plan should include pedestrian trails and paths throughout the development to encourage pedestrian and bicycle activities within the development and between it and the Henlopen Keys and Canal Corkran subdivisions.

6) The plan should include placement of bicycle racks or storage facilities at the entrance to all commercial buildings and the proposed senior center.

Mr. Lawrence B. Lank  
May 4, 2004  
Page 3 of 3

Please contact me at (302) 760-2109 if you have questions concerning this correspondence.

Sincerely,



T. William Brockenbrough, Jr.  
County Coordinator

TWB:rr

Enclosures

cc with enclosures: Ms. Constance C. Holland, Office of State Planning Coordination  
Mr. Stephen A. Raign, Ramesh C. Batta Associates, P.A.  
Mr. Erich J. Hizer, DMJM+HARRIS  
DelDOT Distribution



STATE OF DELAWARE  
EXECUTIVE DEPARTMENT  
OFFICE OF  
STATE PLANNING COORDINATION

May 3, 2004

Mr. Lawrence Lank  
Sussex County Planning  
P.O. 417  
Georgetown, DE 19947

RE: IJUPA 04-07-04-04; Rebay, LLC (Previously Canal Point)

Dear Mr. Lank:

The State has reviewed the proposed rezoning of 180.60 acres located on the southeast side of Holland Glade Road, 3,150 feet northeast of Route One and west of Rehoboth Beach from AR-1 to MR/RPC for the purpose of developing a 617 unit residential planned community. It should be noted that the State agencies originally commented on this project on January 10, 2004, after a December 17, 2004 PLUS meeting regarding this site. (copy attached)

In our response letter, several State agencies commented regarding this project. The purpose of this letter is to inform the County of any changes to our original comments.

**Department of Transportation**

In our January letter, DelDOT commented that the traffic impact study was in the process but they had no comments at that time. DelDOT expects to have the TIS completed during the first week of May, 2004, and will comment directly to the County. Until that study is completed and recommendations are made, DelDOT has noted that their comments are still valid, as follows:

- DelDOT recommended that the County make an extra effort to obtain input on this application from the residents of West Rehoboth.

LUPA 04-07-04-04

Rebay, LLC

Page 2 of 3

- DelDOT asked that the developer consider providing street connections to Henlopen Keys and stub streets to adjacent lands that front on Holland Glade Road. The State is unsure if the developer has included this in his site plan due to the fact that they have not a revised plan.

#### State Historic Preservation

The State Historic Preservation Office has been in contact with the developer to visit the site and determine the archaeological sites on the property that are known to exist. They met, on site on February 24, 2004 but because of ground conditions and overgrowth, the sites could not be located. The SHPO followed up with a letter requesting additional access to the site once it had been plowed; however, the developer responded that they did not plan to plow the fields. The SHPO responded that they would like Dan Griffith, Director of Historic and Cultural Affairs, to visit the site, as he was one of the archaeologists who surveyed the property in the 1970s when the known sites were studied.

The State Historic Preservation Office would like to visit the project site before any construction begins so that they can document the archeological sites before they are potentially harmed. The State asks that the County require the developer to have these sites marked before development of the property.

#### Department of Agriculture

In January the Department of Agriculture recommended a forest mitigation plan to preserve trees during the construction process when possible and allow for improved home design and construction to enhance the resource. Further, the developer was encouraged to provide a diverse landscape plan that includes native trees and shrubs and the DDA extended its services to assist the developer with the project.

It is unclear at this time if the developer has planned a forest mitigation plan; however, we would still recommend that it be done.

#### Department of Natural Resources and Environmental Control

In the January letter, we provided five pages of comments (see attached) regarding natural areas, sediment and stormwater management, water supply, wetlands, TMDLs, nutrient management, soils, natural heritage and endangered species, ERES waters, and habitat. These comments included issues regarding the development, site plan suggestions, and regulatory comments.

The Department of Natural Resources and Environmental Control has stated, through the LUPA process, that they have had no further contact with the developer regarding this site and no new site plans were provided. Therefore, our DNREC comments given in the January 10, 2004 letter stand as written.



LUPA 04-07-04-04  
Rebay, LLC  
Page 3 of 3

State Fire Marshals Office comments that were given in January were advisory comments regarding what information would be needed on the final submittals. These comments also still stand.

Thank you for the opportunity to review this rezoning proposal. We encourage the County to consider the comments given to the developer through the PLUS process. Once a decision is reached regarding this proposal, please contact this office so that our records may be updated reflecting your decision.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "Constance C. Holland". The signature is written in dark ink and is positioned above the printed name and title.

Constance C. Holland  
Director



STATE OF DELAWARE  
EXECUTIVE DEPARTMENT  
OFFICE OF  
STATE PLANNING COORDINATION

January 10, 2004

Mr. Zachary Crouch  
Project Manager  
Davis, Bowen & Friedel, Inc.  
23 North Walnut Street  
Milford, DE 19963

RE: Preliminary Land Use Service (PLUS) – Canal Point

Dear Mr. Crouch:

Thank you for meeting with State agency representatives on December 17, 2003 to discuss the Canal Point project. This project is the rezoning and subdivision of a 180.6 acre assemblage of parcels on the southeast side of Holland Glade Road, northwest of Rehoboth Beach to create a residential development. It is our understanding that 283 single family detached houses, 82 townhouses and 252 apartments are planned for the site.

Please note that changes to the plan, other than those suggested in this letter, could result in additional comments from the State. Additionally, these comments reflect only issues that are the responsibility of the State agencies represented at the meeting. The developers will also need to comply with any Federal, State and local regulations regarding this property. We also note that, if annexed, Sussex County is the governing authority over this land; the developers will need to comply with any and all regulations/restrictions set forth by the County.

State Agency comments are as follows:

**Department of Transportation – Contact: Bill Brockenbrough 760-2166**

Contrary to the Request for Review information, the traffic impact study (TIS) for this development has not been submitted yet although DelDOT stated they understand that it is in process. When they have reviewed it, they anticipate commenting to Sussex County on their findings and recommendations.

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Hebron Road presently serves as the only access to a low-income neighborhood known as West Rehoboth. Most of the developed properties are rental housing owned by people who live elsewhere. Because it is relatively isolated, this neighborhood has continued to exist despite rising real estate prices in the surrounding area. While the TIS will address traffic issues associated with the effects of connecting Hebron Road to Canal Crossing Boulevard, there are also social and economic issues associated with such a connection. The County should consider taking additional steps to receive input from the residents of West Rehoboth, recognizing that something more than the normal notification and public hearing process is appropriate. Additional measures could include a hearing at a location in or near West Rehoboth and local postings of the hearing notices.

The developer should consider providing street connections to Henlopen Keys and stub street connections to adjacent lands that front on Holland Glade Road. If street connections are not feasible, bicycle and pedestrian connections should be considered.

**State Historic Preservation Office (SHPO) – Contact: Anne McCleave 739-5685**

There is a farm complex consisting of a house and outbuildings on the proposed development parcels. There are also known archaeological sites (at least 8) throughout the development area and a high probability for other historic and prehistoric archaeological sites. The applicant or developer should contact Anne McCleave to allow SHPO to document the historic buildings before they are demolished and to set up a meeting with the archaeologists in their office to discuss ways to avoid or minimize any effects to the archaeological sites.

If there is any federal involvement, in the form of licenses, permits, or funds, the federal agency must comply with Section 106 of the National Historic Preservation Act and consider any effects the project will have on historic resources. The applicants should also be aware of the Delaware Unmarked Human Remains Act (7 Del. Code 54) and contact Faye Stocum in the SHPO office if any human remains are discovered.

**Department of Agriculture – Contact: Bryan Hall 739-4811**

No forest buffer would be required for this site to allow for separation of active agricultural activities. However, the site is heavily forested and inter mixed with forested wetlands. The developer should consider a forest mitigation plan to preserve trees during the construction process when possible and allow for improved home design and construction to enhance the resource. I would encourage the developer to consider connectivity of the green infrastructure to allow for additional recreational opportunities and potential tie-ins to other future development sites. The developer should consider a diverse landscape plan one that includes native trees and shrubs. Finally, the DE Forest service extends its services to assist the developer with this project.

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## **Department of Natural Resources and Environmental Control**

### **Sediment and Stormwater Management – 856-7219**

A detailed sediment and stormwater plan will be required prior to any land disturbing activity taking place on the site. The plan review and approval as well as construction inspection will be coordinated through Sussex Conservation District. Contact Jessica Watson, Program Manager, for details regarding submittal requirements and fees.

It is strongly recommended contacting Sussex Conservation District to schedule a pre-application meeting to discuss the sediment and erosion control and stormwater management components of the plan. The site topography, soils mapping, pre and post development runoff, and proposed method(s) and location(s) of stormwater management should be brought to the meeting for discussion.

A Notice of Intent (NOI) for Stormwater Discharges Associated with Construction Activity must be submitted to DNREC Division of Soil and Water Conservation along with the \$195 NOI fee prior to plan approval.

Applying practices to mimic the pre development hydrology on the site, promote recharge, maximize the use of existing natural features on the site, and limit the reliance on structural stormwater components, such as maintaining open spaces, should be considered in the overall design of the project as a stormwater management technique.

Each stormwater management facility should have an adequate outlet for release of stormwater. Any drainage conveyed onto this site from neighboring properties must be adequately conveyed through the site to the discharge point without interruption.

A Certified Construction Reviewer (CCR) will be required for the site during construction. Contact Sussex Conservation District for details regarding the CCR requirement.

### **Natural Areas - 739-3423**

This parcel does contain natural areas listed on the State's Natural Areas Inventory and is within an identified State Resource Area. The entire project area lies within the Cape Henlopen State Resource Area. The forested buffers along the eastern and southern sides of the parcel are part of the Cape Henlopen Natural Area.

The preliminary plan does not provide adequate buffering between the development and the adjacent wetland resources. According to the Statewide Wetlands Mapping Project GIS layer this site contains estuarine and palustrine emergent and palustrine forested wetlands. It is recommended that all lot lines be at least 100 feet from the wetlands on this site. Lots 6 to 9, 14 to 25, 57 – 62 and 68 to 77 all encroach too closely to the wetland resources on and adjacent to this site.

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The Department does not feel that forest should be destroyed to create storm water management ponds. This proposal shows two storm water management ponds in what are currently forested areas. The worse of the two is the small dogleg-shaped pond on the southeast side of the development, adjacent to an isolate palustrine emergent wetland. This wetland probably provides breeding habitat for several amphibian species as well as habitat for a number of other species of flora and fauna. It is recommended that DNREC's Division of Soil and Water Conservation and the Sussex Conservation District Office be consulted regarding the practicality of alternative stormwater management practices on this site.

#### **Water Supply - 739-3665**

The project information sheets state water will be provided to the project by City of Rehoboth Beach via a central water system. Our records indicate that the project is located within the public water service area granted to City of Rehoboth Beach under Certificate of Public Convenience and Necessity 99-CPCN-04.

Should dewatering points be needed during any phase of construction, a dewatering well construction permit must be obtained from the Water Supply Section prior to construction of the well points. In addition, a water allocation permit will be needed if the pumping rate will exceed 50,000 gallons per day at any time during operation.

All well permit applications must be prepared and signed by licensed water well contractors, and only licensed well drillers may construct the wells. Please factor in the necessary time for processing the well permit applications into the construction schedule. Dewatering well permit applications typically take approximately four weeks to process, which allows the necessary time for technical review and advertising.

#### **Wetlands - 739-4590**

A wetland delineation should be conducted and verified. It appears that impacts to tidal wetlands may occur due to a trail system located internally within the development. Impacts to waters of the U.S., including impacts to "isolated wetlands" are protected and regulated by the U.S. Army Corps of Engineers (USACE). Tidal wetlands and subaqueous land impacts are regulated by the State Division of Water Resources, Wetlands and Subaqueous Land Section. Individual permits and certain Nationwide Permits from the USACE also require 401 Water Quality Certification from the Wetland and Subaqueous Land Section and Coastal Zone Federal Consistency Certification from the Division of Soil and Water Conservation, Delaware Coastal Programs Section. Each of these certifications represents a separate permitting process. To find out more about permitting requirements, the applicant is encouraged to attend a Joint Permit Process Meeting. These meetings are held monthly and are attended by federal and state resource agencies responsible for wetland permitting.

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The current plan also shows impacts to wetlands resulting from stormwater facility construction near the existing pond. Stormwater facilities must be relocated to avoid this wetland and provide appropriate buffers. The developer is also strongly encouraged to move stormwater management facilities outside of forested areas to minimize forest losses. Construction of alternative stormwater facilities would further allow the developer to redesign portions of the project, moving some lots away from waterbodies, increasing buffer widths, preserving a larger portion of forest while maintaining the planned number of lots.

Buffers of 100' or more from waterbodies and wetlands should be employed throughout the site for water quality and habitat benefits. The buffers shown in the site plans in most cases do not meet this criterion, particularly in the northwestern and southern portions of the project site. Further, lot lines should not include any portion of wetlands or their buffer areas. Homeowners are often unaware of laws protecting wetlands and proper permitting channels and unknowingly fill or degrade wetlands within their property boundaries, contributing to cumulative wetland loss. The developers should also strongly consider putting riparian buffers and conservation areas into a permanent conservation easement and clearly marking their boundaries to prevent encroachment.

#### **Habitat - 739-3423**

The open space and perimeters could be better designed to reduce fragmentation by connecting islands and perimeter habitats with travel corridors for wildlife.

Storm water management facilities could be designed to provide aquatic habitats for biodiversity. Large shallow water areas are preferable to small deep ponds.

Buffer strips at least 100 feet wide around storm water facilities and the perimeter of developments will provide habitats for wildlife. These buffer strips should be planted with vegetation that is wildlife friendly and reduce maintenance costs for homeowner associations.

This project represents a major loss of forested wetlands and increases fragmentation of protected state lands in the area. It is, therefore, particularly important that the proposed islands of open space be connected to each other and to the perimeter of the development by travel corridors. Wide buffers of warm season grasses and shrubs around the perimeter of the development are very important.

#### **TMDLs - 739-4590**

With the adoption of Total Maximum Daily Loads (TMDLs) as a "nutrient-runoff-mitigation strategy" for reducing nutrients in the Inland Bays Watershed, reduction of nitrogen and phosphorus loading will be mandatory. A TMDL is the maximum level of pollution allowed for a given pollutant below which a "water quality limited waterbody" can assimilate and still meet water quality standards to the extent necessary to support

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use goals such as, swimming, fishing, drinking water and shell fish harvesting. Although TMDLs are authorized under federal code, states are charged with developing and implementing standards to support those desired use goals. The Jurisdictional authority for attaining these use goals will fall under the auspices of Section 11.5 of the State of Delaware's Surface Water Quality Standards (as amended August 11, 1999), and will be achieved via nutrient reductions referred to as "pollution control strategies."

#### **Nutrient Management Issues 739-4590**

Most of the soils occurring on the Southern Coastal Plains of Delaware have sandy surface and/or subsurface horizons. Such soils have rapid permeabilities with little or no phosphorus/nitrogen adsorption capacity; therefore, increased nutrient pollutant loads from such inputs will likely leach into receiving waters of the watershed. This process is further intensified in those soils containing shallow water tables.

The developer is encouraged to select BMPs that provide nutrient control for stormwater and open spaces. Vegetative buffers that require little to no management are recommended. A riparian corridor along streams that is outside of the individual lot lines is encouraged and should be managed through the civic association. Education of the landowners as to proper lawn and landscaping management should be made part of each lot transfer.

Nutrient reductions prescribed under TMDLs are assigned on basis of water quality concerns -- that is, the those regions deemed to be of greatest environmental concern will require correspondingly higher levels of nutrient reduction than those regions deemed less environmentally sensitive. In this watershed, these regions are demarcated as high and low reduction zones. The high reduction zone corresponds to the western portion of the watershed, and requires a reduction of nitrogen and phosphorus by 85 and 65 percent, respectively. The low reduction zone corresponds to the eastern portion of the watershed, and requires a reduction of nitrogen and phosphorus by 40 percent.

#### **This project is proposed within the low nutrient reduction zone.**

In order for the applicant to verify compliance with the TMDL mandate, a full nutrient accounting process known as a nutrient budget should be prepared. The developer/consultant should contact Lyle Jones (302-739-4590) in the Department's Watershed Assessment Section for further information regarding the acceptable protocol for calculating a nutrient budget.

It should also be noted that a significant portion of subject parcel ( $\approx 1/3$  to  $1/2$  of parcel) is heavily forested. Forested lands have been consistently shown to be far more effective agents for adsorbing nutrients and other pollutants. Removal of forest cover will almost certainly increase pollutant loading into the Inland Bays and make it more difficult for Delaware to comply with TMDL nutrient load reduction requirements. **From the information presented at the Request for Review meeting on December 17, 2003,**

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and the Nutrient Protocol beta Model, Canal Point as presented would increase the nutrient load to the Inlands Bays Watershed.

### Soils

According to the recent soil survey update, the soils in the vicinity of the proposed construction are mapped as Greenwich and Downer. Both Downer and Greenwich are well-drained upland soils. Delineated wetlands are outside the proposed construction area.

### Natural Heritage and Endangered Species

A review of our database indicates that the following rare, threatened or endangered species and/or unique natural communities may be found at or adjacent to the project site:

Scientific Name	Common Name	Taxon	State Rank	State Status	Global Rank	Federal Status
<i>Callophrys irus</i>	Frosted elfin	Butterfly	S1	E	G3	
<i>Libytheana carinenta</i>	American snout	Butterfly	SH		G5	

The Frosted elfin is not only state-rare; it is listed as State Endangered and is considered Globally Rare (fewer than 100 known locations remaining worldwide). Records for these species at or near this site are now considered historical (last observed >20 years old), primarily because we have never searched the area where the specimens were reportedly found. Due to the lack of specific information associated with the specimens (from University of Delaware specimen collection), we are uncertain precisely where these species were observed. Frosted elfin larvae feed exclusively on a state-rare plant (*Lupinus perennis*; purple lupine), which typically grows in dry upland forests with open canopy sunny or partial shade conditions or right-of-ways. Division biologists have never visited this property to search for the host plant or adult butterflies. **The Natural Heritage Program has requested permission to evaluate whether habitat for these species, particularly Frosted elfin and its foodplant, exists on this site.** Surveys cannot be conducted until the spring; more detailed information on survey timing will be provided.

The loss of upland forest is a concern given the close proximity to protected lands owned by the Division of Parks and Recreation. Although the applicant indicates on the form that "all upland woods will remain...", it appears that only trees may be left to stand with houses in most of the understory. This is no longer forest habitat, but instead is wooded suburban landscaping. The wooded lots will not serve as habitat equivalent to an intact, undisturbed forest. Though the area is nearly surrounded by development and, except for protected State Park land, essentially fragmented from larger contiguous blocks of forest, coastal habitats (including forest and shrub-scrub) are very important stopover sites for birds that follow coastlines during migration<sup>1</sup>. This project, if completed as designed,



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will result in loss of forest habitat for many wildlife species. Impacts may be lessened to a small degree by preserving and maintaining forest-like habitat completely surrounding homes, including understory shrub and herb layers typical of surrounding forest habitats. The developer is encouraged to explore ways to ensure that community residents will maintain their properties as native woodland, rather than manicured landscaping. The north side of Rehoboth Beach should be evaluated as an example of how woodland habitat can surround homes and lend character to the community.

<sup>1</sup> Mabey, S.E., J. McCann, L.J. Niles, C. Bartlett, P. Kerlinger. 1993. The neotropical migratory songbird coastal corridor study: Final report. A report to the Virginia Department of Environmental Quality to the National Oceanic and Atmospheric Administration's Office of Ocean and Coastal Resource Management pursuant to NOAA Award No. NA90AA-H-CZ839. 72 pp.

#### **ERES Waters**

The Inland Bays and its tributaries are designated as waters having Exceptional Recreational or Ecological Significance (ERES). ERES waters are recognized as special assets of the State, and shall be protected and/ or restored, to the maximum extent practicable, to their natural condition. Provisions in Section 11.5 of Delaware's "Surface Water Quality Standards" (as amended August 11, 1999), specify that all designated ERES waters and receiving tributaries develop a "pollution control strategy" to reduce non-point sources of nutrient runoff through implementation of Best Management Practices (BMPs). Best Management Practices as defined in subsection 11.5(e) of this section, expressly authorizes the Department to provide standards for controlling the addition of pollutants and reducing them to the greatest degree practicable, or where attainable, a standard requiring no discharge of pollutants.

#### **State Fire Marshals Office 856-5298**

At the time of formal submittal, the applicant shall provide; completed application, fee, and three sets of plans depicting the following in accordance with the Delaware State Fire Prevention Regulation (DSFPR):

a. **Fire Protection Water Requirements:**

- Water distribution system capable of delivering at least 1000 gpm for 1-hour duration, at 20-psi residual pressure is required. Fire hydrants with 800 feet spacing on centers.
- Where a water distribution system is proposed for (business/educational/assembly/healthcare/multi-family) sites, the infrastructure for fire protection water shall be provided, including the size of water mains for fire hydrants and sprinkler systems.
- Where a water distribution system is proposed for single family dwellings it shall be capable of delivering at least 500 gpm for 1-hour duration, at

20-psi residual pressure. Fire hydrants with 1000 feet spacing on centers are required.

- Where a water distribution system is proposed for townhouse type dwellings it shall be capable of delivering at least 1000 gpm for 1-hour duration, at 20-psi residual pressure. Fire hydrants with 800 feet spacing on centers are required.

b. **Fire Protection Features:**

- All structures over 10,000 Sq. Ft. aggregate will require automatic sprinkler protection installed.
- Buildings greater than 10,000 sq. ft., 3-stories or more or over 35 feet, or classified as High Hazard, are required to meet fire lane marking requirements.
- Show Fire Department Connection location (Must be within 300 feet of fire hydrant), and detail as shown in the DSFPR.
- Show Fire Lanes and Sign Detail as shown in DSFPR

c. **Accessibility:**

- All premises which the fire department may be called upon to protect in case of fire, and which are not readily accessible from public roads, shall be provided with suitable gates and access roads, and fire lanes so that all buildings on the premises are accessible to fire apparatus. This means that the access road to the subdivision from Hebron St. must be constructed so fire department apparatus may negotiate it.
- Fire department access shall be provided in such a manner so that fire apparatus will be able to locate within 100 ft. of the front door.
- Any dead end road more than 300 feet in length shall be provided with a turn-around or cul-de-sac arranged such that fire apparatus will be able to turn around by making not more than one backing maneuver. The minimum paved radius of the cul-de-sac shall be 38 feet. The dimensions of the cul-de-sac or turn-around shall be shown on the final plans. Also, please be advised that parking is prohibited in the cul-de-sac or turn around.
- If the use of speed bumps or other methods of traffic speed reduction must be in accordance with Department of Transportation requirements.

d. **Gas Piping and System Information**

- Provide type of fuel proposed, and show locations of bulk containers on plan.

d. **Required Notes:**

- Provide a note on the final plans submitted for review to read " All fire lanes, fire hydrants, and fire department connections shall be marked in accordance with the Delaware State Fire Prevention Regulations"
- Proposed Use

PLUS Meeting  
Canal Point  
Page 10 of 10

- Alpha or Numerical Labels for each building/unit for sites with multiple buildings/units
- Square footage of each structure (Total of all Floors)
- National Fire Protection Association (NFPA) Construction Type
- Maximum Height of Buildings (including number of stories)
- Note indicating if building is to be sprinklered
- Name of Water Provider
- Letter from Water Provider approving the system layout
- Provide Lock Box Note (as detailed in DSFPR) if Building is to be sprinklered
- Provide Road Names, even for County Roads

Preliminary meetings with fire protection specialists are encouraged prior to formal submittal. Please call for appointment. Applications and brochures can be downloaded from our website: [www.delawarestatefiremarshal.com](http://www.delawarestatefiremarshal.com), technical services link, plan review, applications or brochures.

Again, thank you for meeting with State agencies regarding this project. If you have any questions, please contact me at 302-739-3090.

Sincerely,



Constance C. Holland, AICP  
Director

CC: Lawrence Lank



STATE OF DELAWARE  
DIVISION OF HISTORICAL AND CULTURAL AFFAIRS  
DELAWARE STATE HISTORICAL PRESERVATION OFFICE  
21 THE GREEN, SUITE A  
DOVER • DE • 19901-3611

TELEPHONE: (302) 739-5685

RECEIVED  
MAR 10 2004

PLANNING & ZONING  
COMM. OF SUSSEX COUNTY

FAX: (302) 739-5660

March 8, 2004

W. Zachary Crouch  
Project Manager  
Davis, Bowen & Friedel, Inc.  
23 N. Walnut Street  
Milford, DE 19963

**RE: Canal Point and Archaeological Sites**

Dear Mr. Crouch:

Thank you for allowing me and two archaeologists, Craig Lukezic and Chuck Fithian, to visit the site of the proposed Canal Point development project on February 28<sup>th</sup>. Though we have no authority to approve or disapprove the development plans, the LUPA (now PLUS) process allows our office to provide comments to applicants and developers about historic and cultural resources within and near their proposed development projects and advise ways to lessen any effects the projects may have on such resources. In my comments following the pre-LUPA meeting in December 2003, and as Craig and Chuck explained during the site visit last week, there are known Indian archaeological sites within the development area and the probability is high that there are additional sites that could provide important information about the Indian inhabitants of what is now Delaware. Collections made at these sites nearly 30 years ago show the Indian occupation in this area began as early as 500 B.C.

Due to the surface conditions of the land during our site visit, we were unable to precisely locate and determine the boundaries of the known sites. On March 4, Craig and I met with Dan Griffith, director of Historical and Cultural Affairs, and discussed the importance of these archaeological sites and the other probable sites throughout the entire project area and the importance of the information these sites could yield. Therefore, we would like to request additional access to the project area, which includes the previously cultivated and wooded areas, and ask that the previously cultivated land be plowed beforehand. Once the land is plowed, we will be able to determine the archaeological site locations and boundaries, evaluate the sites, and gather information. We would also like to request a copy of the construction timeline for the development project, which will help us determine a good time to schedule a visit to the development site.

Again, we appreciate your and the owners' willingness to cooperate with us and to allow access to the property. Please feel free to contact me at 302-739-5685 if you have any questions, concerns, or would like to schedule a time we can visit the site.

Sincerely,



Anne M. McCleave  
Architectural Historian

Cc: Dan Griffith, Division of Historical & Cultural Affairs  
Craig Lukezic, State Historic Preservation Office  
Chuck Fithian, State Museums  
Connie Holland, Office of State Planning Coordination  
Ann Marie Townsend, Office of State Planning Coordination  
Lawrence Lank, Sussex County Planning & Zoning



Norma Lee Burton Derrickson  
49 Tidewaters  
Rehoboth Beach, DE 19971

Sussex County Planning & Zoning  
2 The Circle  
P.O. Box 417  
Georgetown, DE 19947

RECEIVED

JUN 04 2021

SUSSEX COUNTY  
PLANNING & ZONING

June 02 2021

I am writing concerning C/Z/1926 - Townhomes, LLC (Canal Point RPC) consisting of 617 units.

I am against any rezoning or approval of pier ,docks, boat ramps or recreational facilities for the canal.

The canal is dangerously shallow at low tide with barely enough water for one boat. The canal needs to be dredged to create a safe waterway for current water craft. Increased the safety concerns for residents living along the canal!

Who will be responsible for controlling traffic, insuring safety and proper boat rules? Who is policing for proper water safety and litter control?

I am against approval to amend conditions at Canal Point for water access.

Sincerely,

Norma Lee Burton Derrickson

Enclosed: Picture of Rehoboth and Lewes Canal



Rehoboth Lewes Canal  
Mud Flats

05/18/2021

**Porter K. Wheeler  
79 Tidewaters Road  
Henlopen Acres, DE 19971**

June 8, 2021

Sussex County Council  
2 The Circle P.O. Box 589  
Georgetown, Delaware 19957

RE: The Grande at Canal Pointe – Application #C/Z 1926

Dear Sussex County Council Members:

Our residence at 79 Tidewaters, Henlopen Acres, backs onto a section of the Rehoboth-Lewes Canal near and virtually across from the proposed installation of a “recreational dock/pier.” We urge denial of this application because of its numerous adverse effects that would detract from the peaceful enjoyment of our property.

We placed trust in the existing conditions for approval of the development imposed by the Council, and specifically Condition #15, which reads as follows: “No piers, docks, boat ramps, or other water related recreational facility shall be permitted.” To now find the Council considering permitting the installation of virtually public docking facilities is very disturbing.

Among the negative impacts of this proposal are the following:

- Destruction of the natural buffer between the Subdivision and the Canal, including the protected wetlands along the western side of the Canal. Much clearing seems to already have occurred in that area.
- Excessive use of the proposed dockage facility seems highly likely, since a large number of homes (over 500) will have access. This is unlike nearby areas such as Canal Corkran where access is by a few individual households. I see nothing in the proposal addressing needed restrictions on auto and people access to govern usage of the dockage. This could create a real mess and spillover to adjacent properties.
- Further, because Canal waterway traffic is virtually unregulated, any proposed limits against motorized watercraft will be difficult to enforce.
- Disturbance of wildlife habitat including the osprey and eagles that frequent the area and have already lost much of their potential nesting area. The Development itself has driven throngs of deer to cross the Canal in search of food and nesting.

This proposal is especially disingenuous in that the Development HOA proposes to build dockage thru and over protected wetlands in order to “protect” them from otherwise undesirable use by the same Canal Pointe residents. In other words, they are going to permit boating access in any event.

For these and other reasons, I beg the Council to **deny** the Application.

Sincerely, *Porter K. Wheeler L/S*



Porter K. Wheeler  
79 Tidewaters Road  
Henlopen Acres, DE 19971

June 8, 2021

Sussex County Council  
2 The Circle P.O. Box 589  
Georgetown, Delaware 19957

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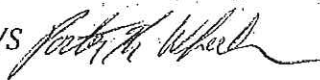
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For these and other reasons, I beg the Council to deny the Application.

Sincerely, Porter K. Wheeler L/S



## Jamie Whitehouse

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**From:** Cape Water Tours <capewatertours@gmail.com>  
**Sent:** Wednesday, June 9, 2021 5:58 PM  
**To:** Jamie Whitehouse  
**Subject:** Fwd: Proposed letter to Sussex Country regarding Canal Pointe dock  
**Attachments:** Canal Pointe .pdf

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Mr. Whitehouse,

I have attached a letter which expresses my concerns about the proposed Canal Pointe dock.

Thank you,  
Captain David Green

Cape Water Tours & Taxi  
302-644-7334  
<http://www.capewatertours.com>



Sussex County Council  
County Administrative Offices  
2 The Circle  
Georgetown, Delaware 19947

To Whom It May Concern:

My name is David Green, and I am the founder, owner and operator of the Cape Water Tours and Taxi. Our primary boating services are offered on the Lewes & Rehoboth Canal. We have provided our unique service successfully for over ten years and look forward to many more.

I am aware of the efforts of the home-owners association in Canal Pointe to build a 30' X 30' kayak/canoe launching dock on the canal in a buffer tree area that has been converted in what they call Canal Pointe Park. I have great concerns about this proposal for the following reasons:

1. Safety

First and foremost, I believe this proposal raises great concerns for safety. The area of the Canal where the dock will be located is very narrow, with an existing passable width of only 75 feet. With the addition of this proposed dock that extends 30' into the Canal, the passable area will only be 45 feet. This is further reduced by shoaling & silting in of the canal. I believe at the very least, someone should conduct a subaqueous survey of that stretch of the canal to determine if this will become a hazard to navigation in the future.

2. Dock Design

Rather than extend 30' into the Canal, it would be far better for any dock to "hug the shoreline." Possibly the addition of an "Kayak slide ramp" might help matters even further?

Sincerely,

Captain David Green



JOHN W. PARADEE  
302.677.0061  
John@bmbde.com

June 10, 2021

Sussex County Council  
2 The Circle  
Georgetown, Delaware 19947

**RE: Opposition to Application #C/Z 1926  
CP Townhomes, LLC (Canal Pointe RPC)  
Boat Dock Application for The Grande at Canal Pointe**

Dear Sirs/Madam:

We represent a number of residents and property owners within the immediate vicinity of the residential subdivision known as The Grande at Canal Pointe (the "Subdivision"), adjacent to the Lewes & Rehoboth Canal (the "Canal"). We write to express our opposition to the above-referenced application (the "Application") as it is presently postured, and further, to respectfully request that you place a number of limitations upon any approval of the Application you might consider in order to pay due respect and justice to the serious environmental, water safety, and other issues discussed hereinbelow.

***The Original Subdivision Approval Granted in 2004  
Imposed Condition #15 for Good Reason***

The residential subdivision known as The Grande at Canal Pointe (Application #C/Z 1538) was approved by Sussex County Council on May 25, 2004. Notably, at the time Application #C/Z 1538 was presented to Council, there was significant public opposition to proposed Subdivision, particularly from neighboring property owners in the existing communities of Henlopen Keys, The Glade, and Sandalwood. Indeed, numerous letters submitted by the public in opposition to the Subdivision expressed serious and credible concerns relating to the potential impacts of the Subdivision on existing natural buffers, wetlands, open space, wildlife habitat, indigenous endangered species, nutrient management, and Total Maximum Daily Loads (TMDLs) in the Canal. See Exhibit "A" attached. Additionally, the Delaware Department of Natural Resources and Environmental

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6 S. State Street | Dover, Delaware 19901 | T 302.677.0061 | F 302.677.0065  
www.bmbde.com

DOVER | LEWES | GREENVILLE | GEORGETOWN

Control (DNREC) expressed serious reservations about the Subdivision's potential impact on the Canal and adjacent wetland areas. See Exhibit "B" attached. Accordingly, when approving Application #C/Z 1538, Sussex County Council imposed twenty (20) conditions upon its approval of the Subdivision in order to "minimize any potential impacts on the surrounding area." Among those conditions was Condition #15, which reads as follows:

**15. No piers, docks, boat ramps, or other water related recreational facilities shall be permitted.**

It should thus be obvious that, when approving the Subdivision in 2004, Sussex County Council was sufficiently concerned about the potential impacts of the Subdivision upon the Canal and the adjacent wetlands and natural vegetated buffers that Council wisely exercised its judgment and legislative discretion to prohibit the residents of the Subdivision from installing any "water related recreational facilities" along the Canal. In the 17 years since the Subdivision was approved, *nothing has changed which justifies the removal of Condition #15*. To the contrary, if anything, the alarm expressed by the public and by DNREC in 2004 rings ever more loudly today, in 2021 – with increasing density, development, and waterway traffic along the Canal, and with continuing intrusions upon the precious ecological environs of the Canal, the threat to existing natural buffers, wetlands, open space, wildlife habitat, indigenous endangered species, nutrient management, and Total Maximum Daily Loads (TMDLs) in the Canal is even greater today. For this reason, Condition #15 should not only not be removed or revised – it should be reaffirmed as originally written.

***Every Homeowner in Canal Pointe  
Took Title with Notice of Condition #15***

The suggestion that it is only "fair" for the residents of the Subdivision to be permitted to install a "recreational dock/pier" along the Canal because there are already other several other private docks along the Canal and a marina within the Henlopen Acres community is both factually disingenuous and legally unsustainable. First and foremost, all of the other docks along the Canal are *private* docks – for the use of a single lot owner. Second, unlike the instant Application, none of those docks were otherwise prohibited by local land use regulations or approvals. Third, none of those docks protrude into the Canal as

deeply as the “recreational dock/pier” proposed by the present Application. As for the marina within the Henlopen Acres community, that marina has been in place since at least the 1930s<sup>1</sup>, it does not protrude into the Canal, and it is located within a completely different jurisdiction, subject to and entirely compliant with a wholly distinct regulatory scheme, and thus, there is simply no basis for comparing the longstanding marina to the present Application.

Most critically, from a legal perspective, each and every property owner within the Subdivision took title to their lot with constructive notice of the existence of Condition #15, and they are all therefore legally bound by the dictates of Condition #15 – “no piers, docks, boat ramps, or other water related recreational facilities shall be permitted.” Simply stated, there is no legal or other “right” for anyone in the Subdivision to install a “recreational dock/pier” along the Canal.

### ***The Application is Excessive in Scope and Magnitude***

The Application requests that County Council “remove” Condition #15 in its entirety, while at the same time professing that the Applicant merely seeks to “install one recreational dock/pier for the community to launch small, non-motorized watercraft, such as kayaks, canoes and paddle boards and for fishing.” If the Applicant’s intentions are as limited as the Applicant professes, then there is certainly no need to “remove” Condition #15 in its entirety. Thus, as written and presented, the Application seeks more than the Applicant professes to want or desire.

Here it is critical to note that there are **571 units** located within the Subdivision. Accordingly, the elimination of Condition #15 would not only open the floodgates for all sorts of water related recreational facilities serving the residents of the Subdivision – it would introduce more than 1,000 additional individuals into one of the more narrow and environmentally-sensitive channels of the Canal. It should be readily apparent that, if any “recreational dock/pier” is to be permitted here at all, it must be severely limited in scope and magnitude in order to avoid an environmental travesty and obvious water safety concerns. See, for example, the correspondence (enclosed herewith as Exhibit “D”) from David Green, the owner and operator of Cape Water Tours and Taxi, explaining the

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<sup>1</sup> See Exhibit “C” attached.

safety hazards posed by a “recreational dock/pier” of the scope and magnitude proposed by the Application in this particularly narrow part of the Canal.

Given that the location of the “recreational dock/pier” proposed by the Application is such a pristine and ecologically sensitive part of the Canal, and recognizing the obvious water safety risks of inviting more than 1,000 additional individuals to recreate in this very narrow part of the Canal, *if* Sussex County Council is inclined to approve the Application in any degree, then certainly nothing more than a strictly limited kayak/canoe launch would be appropriate. See, for example, the renderings attached hereto as Exhibit “E”.

#### *Other (Technical) Concerns*

There are a number of other, more technical concerns our clients have regarding the Application. If an acceptable resolution or disposition of the Application can be achieved which satisfactorily addresses all of the other concerns identified above, then we would anticipate that these other, more technical concerns can likewise be satisfactorily addressed – but in the interests of full transparency, we are compelled to raise these other, more technical concerns here and now, to-wit:

1. We question whether the entities identified as the “Applicant” and the “Owner” on the Application – CP Townhomes, LLC and Canal Pointe Maintenance Corporation – have legal standing to present same. According to the last Deed of record, the owner of legal title to the subject property is “The Grande at Canal Pointe Maintenance Corporation”. See Exhibit “F” enclosed. Perhaps this is the same entity as “Canal Pointe Maintenance Corporation”, but we have not been able to confirm as much. Likewise, we have not been able to ascertain how or why “CP Townhomes, LLC” may have legal standing to present the Application.

2. More critically, the location of the “recreational dock/pier” proposed by the Application appears to be located upon lands owned by someone other than The Grande at Canal Pointe Maintenance Corporation. See Exhibits “G” (a plot plan) and “H” (a photograph showing a survey stake in the Canal) enclosed, both of which suggest that the location of the “recreational dock/pier” proposed by the Application would fall within the boundary lands owned by someone other than The Grande at Canal Pointe Maintenance Corporation – upon information and belief, the lands in question are now owned by a gentleman named Michael Firetti,

who we believe purchased same from Bryce Lingo or affiliates. We suspect that you may hear from this owner separately.

***If You Permit a Kayak/Canoe Launch, You Should Impose Conditions Designed to Minimize the Obvious Environmental and Water Safety Risks***

For all of the reasons set forth above, we respectfully request that the Application be denied. In the event that you determine to grant the Application in some degree, then we respectfully request that you impose the following conditions:

1. Condition #15 of the original Subdivision Plan approval should be modified, rather than removed in its entirety, to create a limited and carefully-crafted exception consistent with the other conditions set forth below. We would be happy to provide suggested language.
2. The scope, design, and dimensions of the proposed dock are reduced to that necessary for no more than a kayak/canoe launch. See Exhibit "E" attached.
3. No storage facilities or other structures or improvements shall be located on or within the subject parcel.
4. No bathrooms, running water, electricity/lighting, or parking shall be located on or within the subject parcel.
5. No motorized watercraft of any kind.
6. Provide secure fencing (with a fob pass like the Subdivision currently employs at its entrance), to prevent members of the public from accessing the kayak/canoe launch. This would help reduce the risk of trespassers utilizing the launch and/or causing any damage to the launch or surrounding area.
7. Appropriate protections for the American Eagles and other endangered or protected wildlife nesting or roosting in the area.
8. Replant/restore the natural buffer that was removed (in violation of Condition #14 and County buffer regulations), except to the extent minimally required to accommodate the kayak/canoe launch. See the before and after photos enclosed as Exhibit "I", showing the extent to which the previous natural buffer has been "denuded".



Sussex County Council  
June 10, 2021  
Page 6

In closing, I ask that this letter be included as part of the record of your June 15, 2021 public hearing, and I thank you for your consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read "John W. Paradee". The signature is stylized with a large, circular flourish on the left side and a long, horizontal stroke extending to the right.

John W. Paradee

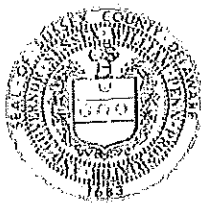
JWP/lwr  
Enclosures



BAIRD  
MANDALAS  
BROCKSTEDT <sup>LLP</sup>

# EXHIBIT A

Sussex County  
Planning & Zoning Commission  
P.O. Box 417  
Georgetown, DE 19947  
302-855-7878  
302-854-5079 (Fax)



John L. Allen, Chairman  
Robert C. Wheatley, Vice-Chairman  
W. Layton Johnson  
Ronald P. Lynch  
Benjamin Gordy  
Lawrence B. Lank, Director

MEMORANDUM

TO: Sussex County Council

FROM: Lawrence B. Lank *Lawrence*  
Director of Planning and Zoning

REF: Rebay, LLC  
C/Z #1538

DATE: June 16, 2004

Please be reminded that on May 25, 2004 the Council deferred action on Change of Zone No. 1538, the application of Rebay, LLC, and left the record open for a period of 15 days to allow time for the opposition to submit additional testimony. The 15 days ended at 4:30 p.m. on June 9, 2004.

Enclosed please find copies of all written comments received from May 25, 2004 through June 9, 2004 for your review.

Attached please find a copy of the Planning and Zoning Commission record for the public hearing on May 6, 2004 and their decision of June 10, 2004.

Should you have any questions, please do not hesitate to contact me at this Department.

Cc: Robert L. Stickels, County Administrator  
James Griffin, County Attorney

C/Z #1538 – application of **REBAY, LLC** to amend the Comprehensive Zoning Map from a MR Medium Density Residential District to a MR-RPC Medium Density Residential District – Residential Planned Community for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, land lying southeast of Route 271 (Holland Glade Road), 3,150 feet northeast of Route One, to be located on 180.60 acres, more or less.

The Commission found that the Applicant had submitted an exhibit booklet prior to the meeting and that the exhibit booklet included a presentation outline, references to zoning, references to a land utilization plan, civil engineering, traffic, the environment, and economic impacts. The exhibit booklet is made a part of the record for these proceedings.

Mr. Lank provided the Commission with a copy of the site plan and a packet of correspondence from agencies and individuals to date. The packet includes comments from DelDOT, the Office of State Planning Coordination, the State Historic Preservation Office, 25 letters in opposition and a petition containing 95 signatures from residents in Canal Corkran Development requesting that consideration be given to the creation of a traffic signal to monitor and make possible a safe flow of traffic off and on Rehoboth Avenue Extended for Canal Corkran and this project. All of the comments are made a part of the record for these proceedings.

The Commission found that Hal Dukes, a partner in Rebay, was present with Chuck Howser and Zack Crouch of Davis, Bowen and Friedel, Inc., Steve Raign of Ramesh Batta Associates and Juanita Morch of the Rehoboth Beach Senior Citizen's Association, and that they stated in their presentations and in response to questions raised by the Commission that the use is in compliance with the Comprehensive Plan Update; that the majority of the site is zoned MR Medium Density Residential, which would allow for development of 4 units per acre; that the site was rezoned to MR prior to the creation of Sandalwood or The Glade; that there will be no impacts on wetlands; that the RPC would be permitted to have 6 acres of commercial use of which 24% is proposed to be dedicated to a senior center; that the project benefits the area by the creation of a connector road from Road 271 to Rehoboth Avenue Extended; that a lot of the people in the audience are in support of the project due to the proposed senior center, that petitions in support of the project have generated 1645 signatures; that they propose a town center type of development with mixed housing, amenities and commercial uses; that they propose to develop 283 single family lots, 82 townhouses, and 252 condominiums; that an area is proposed to be set aside for county services, i.e. emergency facilities; that the layout of the project attempts to preserve as many trees as possible; that walking trails will be provided; that there will be two swimming pools and community facilities, one in the single family subdivision area and one in the multi-family area; that they have worked with DelDOT, DNREC and the Sussex Conservation District in their design to provide as much open space as possible; that 72 acres of the site will remain in open space; that the connector road between Road 271 and Rehoboth Avenue Extended will be dedicated to public use and built to State specification; that subdivision streets in the project will be built to State specification with rolled curbs and sidewalks; that streets in the multi-family areas will be built to County specification; that the project will not exceed to

number of EDU permitted by sewer capacity; that the pump stations in the area have been designed to include to calculations for this project; that water will be provided by the City of Rehoboth Beach; that the Office of the State Fire Marshal has approved the design of the multi-family buildings; that the site has recently been reviewed through the Preliminary Land Use Service (PLUS) program with the Office of State Planning Coordination; that several wet ponds are designed in the project; that the multi-family buildings face existing and proposed water features; that some bio-swales will be utilized; that all wetlands have been delineated; that they propose a minimum setback of 150-feet from tidal wetlands; that the plan reduces Nitrogen by 64% and Phosphorus by 93%; that the Traffic Impact Study performed reviewed 13 intersections in the area and the connector road; that the connector road helps reduce the amount of traffic going onto Route One; that the developer will be constructing the connector road for DeIDOT; that the developer will be contributing to the erection of a traffic signal at Rehoboth Avenue Extended; that Holland Glade Road (Road 271) will be brought up to standards from Route One to the Connector Road by expanding the drive lanes to 11 feet width and adding 5-foot shoulders with bike lane markings; that no additional traffic signals are proposed on Route One; that representatives of the senior center contacted the developer with interest in obtaining a portion of the site for a new center; that the center in Rehoboth Beach is not adequate to serve the number of members and that parking is a problem; that the members are in support of the creation of a new center; that the members patronize businesses in the area and volunteer at the schools, hospitals and other functions; that the petition in support was signed by members of the senior center and others in support; that streets in the project will be turned over to a home owners association when 75% of the properties are sold; that the senior center will be built at the beginning of the project; that the center needs a commercial kitchen, area to seat 500 people; computer labs, and meeting rooms; that the center serves citizens within an area of 22 miles; that commercial uses intended are low volume uses, i.e. sandwich shop, doctors offices; that the commercial area could have been located centrally within the project, but the location was chosen due to the closeness to the collector road; that landscaping and berms along the Sandalwood subdivision would reduce the impact on Sandalwood; that the 5 acre parcel set aside for county services was anticipated to serve as space for possible fire, police, and emergency uses.

The Commission found, by a show of hands that there were approximately 70 people present in support and that there were approximately 21 people present in opposition.

The Commission found that William Lingo, one of the developers of Canal Corkran, was present in support of the project and stated that he does not oppose this application since the use is compatible with the Canal Corkran project, a residential planned community, that the project creates multi-family units across from multi-family units in Canal Corkran and single family units across from single family units; that units will face the existing pond in both projects; that residents in Sandalwood should be given reconsideration in the design and location of the commercial area; that the collector road

will benefit the area and creates interconnectivity; that a signal will be installed at Rehoboth Avenue and Church Street; and that if the application is approved it should be stipulated that the pond between the projects should serve both projects; that a traffic signal should be installed at Church Street and Rehoboth Avenue; that the Applicant should enter into a signal agreement with DelDOT for a traffic signal; and that the Applicant should offer to pay his fair portion of the signal now.

The Commission found that Jeffrey Smith, Charles Valenti, Ann Sier, Sally Danz, Tom Rush, Michael Tyler and Mable Granke, of the 21 present in opposition expressed concerns that the rezoning would create higher density multi-family uses in an area surrounded by single family lots and homes and that it would not be in keeping with the existing zoning; that the commercial area is not needed or desirable; that the rear of commercial establishments should not back up to residential lots; that there are sufficient commercial facilities in the immediate area; that the commercial area is situated immediately adjacent to a neighboring single family subdivision and, if approved, should be centralized within the project so as not to impact neighboring subdivisions; that the county service area is not described or uses explained; that traffic is already a problem; that the traffic impact summary referenced that 4 intersections in the area are currently failing; that this project will add to the traffic problems; that a cemetery may exist on the site and should be protected; that the Applicant should have been required to show a comparison site plan of a subdivision layout; that there are public safety and health concerns; that Road 271 is a narrow county road with no shoulders already serving approximately 329 homes, a church, and a little league park; that a senior center at this location could be hazardous for the members of the center due to the lack of response time for emergency personnel to get to the location; that Route One can get grid-locked; that the addition of another 617 units will make things worse; that there is no solution to the traffic problem; that the infrastructure and services are not there to support a connector road; that a building moratorium should be established until the traffic problems are resolved; that the wildlife in the area will be impacted; that the neighbors would probably not object to a single family residential subdivision; that the area is an environmentally sensitive area and should not be considered a developing area; that development in an environmentally sensitive area which includes wetlands and tidal waters should be protected; that the size of the project and the cumulative impacts it generates need to be addressed; that the infrastructure should be in place prior to approval of this size of project; that a senior center can be built in many other locations and have far less negative consequences; that if the Applicant would sincerely commit to create a conservation design, eliminate multi-family housing and commercial uses, provide permanent user-friendly open space and create a community that is compatible with the surrounding single family residences, the project may be supported by the people of Coastal Sussex; that concerns were expressed about the date and time of receipt of comments from DelDOT and the Office of State Planning Coordination; that forested lands have been consistently shown to be far more effective agents for absorbing nutrients and other pollutants; that removal of forest cover will almost certainly increase

pollutant loading into the Inland Bays and make it more difficult for Delaware to comply with TMDL nutrient load reduction requirements.

The Commission found that Jeffrey Smith and Michael Tyler submitted their comments in written form and that Mr. Smith submitted photographs of the rear of some commercial establishments in the area.

On June 10, 2004 the Commission discussed this application which has been deferred since May 6, 2004.

Mr. Johnson asked Mr. Robertson to read Mr. Johnson's recommendations.

Mr. Robertson read that Mr. Johnson moves that the Commission recommend approval of C/Z #1538 for REBAY, LLC based upon the information contained in the record and for the following reasons:

- 1) The proposed MR-RPC project meets the purpose of the Zoning Ordinance in that it promotes the orderly growth of the County because the proposed project is in a Development District as established by the Comprehensive Land Use Plan.
- 2) Most of this property has been zoned Medium Density Residential for a long time.
- 3) Sewer service will be provided as part of a County operated Sanitary Sewer District, and adequate wastewater capacity is available for the project.
- 4) The Project, with the conditions placed upon it, will contain a diversity of housing types and pedestrian and motor vehicular circulation. It will also promote interconnection between this area and surrounding developments and Rehoboth Beach.
- 5) With the conditions placed upon this project, the RPC designation is appropriate for this parcel of land in that the purpose of an RPC is to encourage large scale development as a means to create superior living environments and the use of design ingenuity while protecting existing and future uses.
- 6) The project will have a net density of 3.58 units per acre. This is consistent with the existing MR zoning of the property.
- 7) This recommendation is subject to the following conditions:
  - 1) The maximum number of residential units shall not exceed 617 units as follows:
    - 310 Single Family Lots
    - 307 Multi-Family or Townhouse Units
  - 2) There shall not be any multi-family or townhouse units within 300 feet of the Henlopen Keys development.
  - 3) The reference to "County Service Area" must be deleted from the Final Site Plan.
  - 4) Site plan review shall be required for each phase of development.
  - 5) All entrance, intersection, interconnection, roadway and multi-modal improvements required by DelDOT shall be completed by the applicant in

- accordance with DelDOT's requirements, or in accordance with any further modifications required by DelDOT.
- 6) Recreational facilities and amenities shall be constructed and open to use by residents of the development within 2 years of the issuance of the first building permit.
  - 7) The development shall be served as part of the West Rehoboth Sanitary Sewer District in accordance with Sussex County Engineering Department specifications and regulations.
  - 8) The MR-RPC shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable regulations.
  - 9) Stormwater management and erosion and sediment control facilities shall be constructed in accordance with applicable State and County requirements. These facilities shall be operated in a manner that is consistent with Best Management Practices (BMPs).
  - 10) The interior street design shall be in accordance with or exceed Sussex County street design requirements and/or specifications. Street design shall include sidewalks on both sides of the streets and street lighting.
  - 11) The applicant shall submit as part of the site plan review a landscape plan showing the proposed tree and shrub landscape design.
  - 12) Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur from Monday through Saturday and only between the hours of 7:00 a.m. and 6:00 p.m.
  - 13) The applicant shall cause to be formed a homeowners or condominium association to be responsible for the maintenance of the streets, roads, buffers, open spaces, stormwater management facilities and other common areas.
  - 14) State wetlands shall not be included in any individual lots. Federal and State wetlands shall be maintained as non-disturbance areas, except where authorized by Federal or State permit.
  - 15) No piers, docks, boat ramps, or other water related recreational facilities shall be permitted.
  - 16) The proposed Senior Center, based on the testimony by the applicant and supporters of the project, shall be located on at least four (4) acres of land. It shall include parking in accordance with County requirements for a large-scale center such as the one proposed for a capacity of at least 500 people, as stated during the public hearing. This parking shall be shown on the Final Site Plan.
  - 17) There shall be no commercial uses in the project, including the area adjacent to Sandalwood, with the limited exception of a sales facility for the duration of the development of the project.



- 18) No multi-family units shall be located in the area adjacent to the pond shown on the preliminary site plan between this project and Canal Corkran. Only townhouses or single family units shall be located in this area.
- 19) Any residential uses between Sandalwood and the Connector Road, also known as Hebron Road, shall be limited to single family lots

Mr. Johnson moved that the Commission recommend approval of the application for the reasons and with the conditions read.

The motion died for the lack of a second.

The Commission discussed the reasons and conditions.

Motion by Mr. Johnson, seconded by Mr. Gordy, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the following reasons and with the following conditions:

- 1) The proposed MR-RPC project meets the purpose of the Zoning Ordinance in that it promotes the orderly growth of the County because the proposed project is in a Development District as established by the Comprehensive Land Use Plan.
- 2) Most of this property has been zoned Medium Density Residential for a long time.
- 3) Sewer service will be provided as part of a County operated Sanitary Sewer District, and adequate wastewater capacity is available for the project.
- 4) The Project, with the conditions placed upon it, will contain a diversity of housing types and pedestrian and motor vehicular circulation. It will also promote interconnection between this area and surrounding developments and Rehoboth Beach.
- 5) With the conditions placed upon this project, the RPC designation is appropriate for this parcel of land in that the purpose of an RPC is to encourage large scale development as a means to create superior living environments and the use of design ingenuity while protecting existing and future uses.
- 6) The project will have a net density of 3.58 units per acre. This is consistent with the existing MR zoning of the property.
- 7) This recommendation is subject to the following conditions:
  - 1) The maximum number of residential units shall not exceed 562 units as follows:
    - 310 Single Family Lots
    - 252 Multi-Family or Townhouse Units
  - 2) There shall not be any multi-family or townhouse units within 300 feet of the Henlopen Keys development.
  - 3) The reference to "County Service Area" must be deleted from the Final Site Plan.
  - 4) Site plan review shall be required for each phase of development.

- 5) All entrance, intersection, interconnection, roadway and multi-modal improvements required by DeIDOT shall be completed by the applicant in accordance with DeIDOT's requirements, or in accordance with any further modifications required by DeIDOT.
- 6) Recreational facilities and amenities shall be constructed and open to use by residents of the development within 2 years of the issuance of the first building permit.
- 7) The development shall be served as part of the West Rehoboth Sanitary Sewer District in accordance with Sussex County Engineering Department specifications and regulations.
- 8) The MR-RPC shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable regulations.
- 9) Stormwater management and erosion and sediment control facilities shall be constructed in accordance with applicable State and County requirements. These facilities shall be operated in a manner that is consistent with Best Management Practices (BMPs).
- 10) The interior street design shall be in accordance with or exceed Sussex County street design requirements and/or specifications. Street design shall include sidewalks on both sides of the streets and street lighting.
- 11) The applicant shall submit as part of the site plan review a landscape plan showing the proposed tree and shrub landscape design.
- 12) Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur from Monday through Saturday and only between the hours of 7:00 a.m. and 6:00 p.m.
- 13) The applicant shall cause to be formed a homeowners or condominium association to be responsible for the maintenance of the streets, roads, buffers, open spaces, stormwater management facilities and other common areas.
- 14) State wetlands shall not be included in any individual lots. Federal and State wetlands shall be maintained as non-disturbance areas, except where authorized by Federal or State permit.
- 15) No piers, docks, boat ramps, or other water related recreational facilities shall be permitted.
- 16) The proposed Senior Center, based on the testimony by the applicant and supporters of the project, shall be located on at least four (4) acres of land to the east of the connector road. It shall include parking in accordance with County requirements for a large-scale center such as the one proposed for a capacity of at least 500 people, as stated during the public hearing. This parking shall be shown on the Final Site Plan.

- 17) There shall be no commercial uses in the project, including the area adjacent to Sandalwood, with the limited exception of a sales facility for the duration of the development of the project and located within the project east of the connector road and not adjacent to Sandalwood.
- 18) No multi-family units shall be located in the area adjacent to the pond shown on the preliminary site plan between this project and Canal Corkran. Only townhouses or single family units shall be located in this area.
- 19) Any residential uses between Sandalwood and the Connector Road, also known as Hebron Road, shall be limited to single family lots

Motion carried 5 – 0.

June 8, 2004

Mr. Robert Stickle  
County Administrator  
Sussex County Council  
2 The Circle  
P.O. Box 589  
Georgetown, DE 19947

RE: C/Z#1538  
Fletcher Farm (lands of Rebay LLC)  
Rt. 271-Holland Glade Road

Dear Sussex County Council:

Having attended the Planning and Zoning meeting on May 6th and the County Council meeting on May 25, we are writing in opposition to Rebay LLC and its request C/Z #1538 currently before you to allow an RPC designation for these tracts of land. Witnessing the testimony of the supportive parties, we believe there are too many 'red-flags' for the Council to approve this development as proposed. As stated in my comments before the Council, the rumor is rampant that this property will be 'flipped' as soon as a RPC designation is granted. It is imperative that should you approve the RPC, many conditions need to be addressed and stipulated so that any future developer will have to abide by the promises and intent made before you by Rebay LLC.

In our opinion, the land should remain MR with no RPC zoning for the following reasons:

1) Allowing commercial use/development on the proposed access road connecting Holland Glade Road and West Rehoboth is not an acceptable use for this property. **Whether or not the proposed Senior Center is appropriate for this site remains to be seen.** According to news reports it appears that Mr. Hal Dukes is now proposing to give all of the land originally designated for commercial use to the Senior Center. **Is that possible since Mr. Dukes closed the door to any future input of his own or his supporters at the Council meeting on May 25th? How can the Council consider something that is NOT PART OF THE OFFICIAL RECORD?** Having witnessed Mr. Hal Dukes' statements before the Council that he saw no need to allow any more time for comments draws into question the 'legal' advice your counsel, Mr. Griffin may give to you, if his quotes in the local newspapers are correct. The Council specifically allowed ONLY OPPONENTS 15 days for additional comments. **If Mr. Dukes is indeed going to propose changes of this magnitude, then we believe that application process should begin again and a revised plan placed before the Council.** Mr. Hal Dukes specifically wanted the input from

the supporters of the project closed, that is why he handed the Council a list of suggested "commercial uses" before the meeting ended. If he indeed is "giving" as it now appears, the entire commercial area to the seniors that would be, I suppose, a positive result for them. It does not however, mitigate the other concerns the residents of the adjacent communities have with the RPC designation.

2) The proposed access road to Rehoboth Avenue also causes us much concern. We realize there are advantages to having such a road and it most likely will be built, but we also realize there are disadvantages which haven't been thoroughly discussed. The proposed access road will likely become a 'shortcut' for exiting the downtown Rehoboth area. The traffic burden this will place on Holland Glade Road, without any infrastructure upgrades for egress onto Route 1 will be enormous. In addition, the ability to enter into town from the access road will be hindered at the Church Street intersection due to the lack of a traffic signal enabling a left-hand turn onto Rehoboth. **We are not convinced that a traffic light will ever be approved for that intersection.** The ramifications a light would have at Church Street extend well onto Route 1. **We would strongly advise the Council to stipulate that the access road be a "local community road", with appropriate speed bumps and residential speed limits.** In light of the recently completed bike path and the danger that exists for those using this path to cross Holland Glade Road, speed bumps at those crossings/intersections would also be appropriate and highly suggested in the near future. Adding to the congestion on Holland Glade road is the Rehoboth Little League ballpark and a soon to be built Epworth Methodist Church. These both impact the area with additional traffic and congestion. **We do not believe the Council should support anything other than current MR zoning for this property until the Rehoboth Beach Entrance Project group and DelDOT have some plan in place and construction begins for easing congestion in the study area.**

3) The multi-family (townhome and condominium) housing the RPC designation permits, plus the possible increase in density is also a concern. The point was made at the Council meeting that single-family units on this land would most likely result in fewer units being able to be built. While we're not certain of the calculations, the Council should not support any increase in density from the current MR zoning. Rebay proposes 14 condominiums with 18 units in each building. We find this totally out of character with what now exists in the adjacent communities. We could support as Mr. Dukes stated at the meeting a "mirror image" of *Ponds Edge* type townhouses surrounding the pond/lake in Canal Corkran. **Again, this change would require him to re-submit his proposal and start the application process again.** The surrounding neighborhoods of Henlopen Keys, Sandalwood, The Glade, and most of Canal Corkran as well as the properties fronting Holland Glade Road are single-family dwellings, mostly built on one-half acres or more. **RPC zoning does not 'fit' with the surrounding communities and should not be supported by the Council.**

4) The state's Planning Coordination Office on January 10, 2004 issued their LUPA/PLUS remarks to the developers, with a follow up on May 3, 2004 to Mr. Lawrence Lank in Planning and Zoning for Sussex County. What we find incredible and disturbing is the following quote from Constance C. Holland about Canal Point's (Rebay LLC) follow-up to the DENREC recommendations, "In the January letter, we provided five pages of comments (see attached) regarding natural areas, sediment and stormwater management, water supply, wetlands, TMDLs, nutrient management, soils, natural heritage and endangered species, ERES waters, and habitat. These comments included issues regarding the development, site plan suggestions, and regulatory comments. **The Department of Natural Resources and Environmental Control has stated, through the LUPA process, that they have had no further contact with the developer regarding this site and no new site plans were provided. Therefore, our DNREC comments given in the January 10, 2004 letter stand as written."**

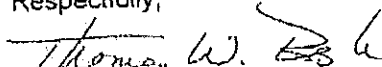
See: <http://www.state.de.us/planning/lupa/2004resp/04070404.pdf>

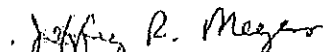
The DENREC comments and suggestions must be given due consideration and should be heavily weighed by the Council since this land is in an environmentally sensitive area. RPC communities can be designed to minimally impact the environment and preserve precious natural resources. The proposal by Rebay LLC does not conform to smart land use guidelines nor does it protect environmentally sensitive areas such as wetlands. Quoting from the January 10th PLUS, "This parcel does contain natural areas listed on the State's Natural Areas Inventory and is within an identified State Resource Area. The entire project area lies within the Cape Henlopen State Resource Area. The forested buffers along the eastern and southern sides of the parcel are part of the Cape Henlopen Natural Area. The preliminary plan does not provide adequate buffering between the development and the adjacent wetland resources. According to the Statewide Wetlands Mapping Project GIS layer this site contains estuarine and palustrine emergent and palustrine forested wetlands. It is recommended that all lot lines be at least 100 feet from the wetlands on this site. Lots 6 to 9, 14 to 25, 57 - 62 and 68 to 77 all encroach too closely to the wetland resources on and adjacent to this site. The Department does not feel that forest should be destroyed to create storm water management ponds. This proposal shows two storm water management ponds in what are currently forested areas. The worse of the two is the small dogleg-shaped pond on the southeast side of the development, adjacent to an isolate palustrine emergent wetland. This wetland probably provides breeding habitat for several amphibian species as well as habitat for a number of other species of flora and fauna. It is recommended that DNREC's Division of Soil and Water Conservation and the Sussex Conservation District Office be consulted regarding the practicality of alternative stormwater management practices on this site." We would suggest that the Council stipulate that FOREST may only be removed for dwelling structures, roads and driveways and STIPULATE THAT ALL WETLAND BUFFERS BE AT LEAST 100 FEET from any lot lines.

Lastly, while Mr. Dukes' proposal does not suggest using Henlopen Keys Roads, we do not know what plans might be put forth by a different developer in the future, should one emerge. **Therefore, we would like it to be stipulated by the Council that use of existing Henlopen Keys roads be prohibited.** We live in a very small, quiet community that has no desire to be adversely affected by traffic from an additional 600+ homes.

In summation, there is no doubt the Fatcher Farm will be developed. We believe there shouldn't be a rush on the Council's part to approve a development that is ill-conceived and not well thought out. How it is developed is critical for those of us who have homes adjacent to this property. Any community that is built there should fit in with the character of the surrounding area, not harm or impact the environment adversely and should have planned infrastructure (roads) in place before construction begins. **The proposal before you violates these standards.** We do not believe you should grant this (RPC) zoning designation due to the many issues raised. We trust you will take into consideration and contemplate the ramifications approving this development (as proposed) will have on the surrounding communities and Rehoboth itself for years to come. We thank you for your time and consideration.

Respectfully,

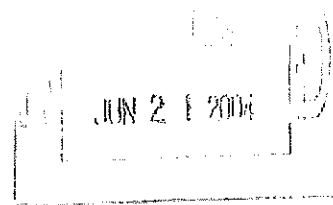
  
Thomas W. Resh

  
Jeffrey R. Meyers

Henlopen Keys  
2 Gary Avenue  
Rehoboth Beach, DE 19971

June 18, 2004

Mr. Robert Stickles  
County Administrator  
Sussex County Council  
2 The Circle  
P.O. Box 589  
Georgetown, DE 19947



RE: C/Z#1538 – Planning and Zoning Minutes  
Futcher Farm/Canal Point (lands of Rebay LLC)

Dear Sussex County Council:

We still are of the opinion that the plans for this development have changed "significantly" and require the Council to re-open the process back up to additional comments and input from both supporters and opponents of the plan. It is the only way to have a complete picture of what the development will look like when built. There is no need to RUSH the approval of this development. This is, without argue one of the last and finest properties near Rehoboth to be developed and it deserves serious study and responsible action by the Sussex County Council.

Below are our thoughts and opinions as they now stand after reviewing the recommendation and conditions of the Planning and Zoning Commission concerning the above proposal by Rebay/Canal Point. There are several specifications that we are in agreement with and a few that we think are fundamentally flawed and concern us greatly.

**We think the P& Z Commission was correct in:**

- Eliminating the "County Service Area" from the Final Site Plan.
- Lowering the multi-family density for the development.
- Excluding any State wetlands within individual lot lines.
- Excluding any commercial uses for the site.
- Moving the Senior Center to the East side of the connector road and insisting on adequate parking; however, there are related concerns listed below.

**The conditions, which concern us and we view as 'flawed' are:**

- # 2, which limits multi-family or townhouse construction within 300 feet of Henlopen Keys. What does that leave for the developer to put there? Single-family homes, parking lots (for the multi/townhouse portion) or the proposed Senior Center would be the only allowed uses. If you look at condition # 19 as it pertains to Sandalwood, the Commission expressly stated that only single-family homes could be placed next to Sandalwood.



**We are requesting the Council expressly state the same for Henlopen Keys.** Only single-family homes may be adjacent to the Henlopen Keys community.

- Of utmost concern is condition #5 which states: *"All entrance, intersection, interconnection, roadway and multi-modal improvements required by DelDOT shall be completed by the applicant in accordance with DelDOT's requirements, or in accordance with any further modifications required by DelDOT."* One of the main points in the LUPA notice from the State Planning Office on January 10<sup>th</sup> and the May 3<sup>rd</sup> follow-up letter was: *"The developer should consider **providing street connections to Henlopen Keys and stub street connections to adjacent lands that front on Holland Glade Road. If street connections are not feasible, bicycle and pedestrian connections should be considered.**"* **We adamantly OPPOSE any street connections to "Canal Point" and would like it to be stipulated by the Council that use of existing Henlopen Keys roads be PROHIBITED.** We live in a very small, quiet community that has no desire to be adversely affected by traffic from an additional 500-600+ homes.
- Condition # 16 which calls for moving the Senior Center to East of the connector road and calling for adequate parking is mostly well thought out, but we would go further and call for the Senior Center to be situated on at least 6 acres (the entire commercial acreage first sought by Rebay) AND be included inside the broad plan for *Canal Point*. We do not believe it should be placed near existing communities and ask that the Council condition an appropriate buffer, perhaps 400 to 500+ feet or more.
- We still are of the opinion that the multi-family units called for are out of character with our community and do not reflect what currently exists with in the surrounding communities. When you look at condition # 18, the Commission was clearly concerned about the multi-family structures called for around 'the pond' and conditioned the area as single family or townhome only. **We would like the Council to take the viewpoint that ONLY single-family (or townhouse\*) units are appropriate for this ENTIRE CANAL POINT DEVELOPMENT and stipulate that as a condition of approval.** Multi-family units of 18 units per building are NOT APPROPRIATE ANYWHERE on this entire parcel of land.  
\*While we would like to maintain the current MR zoning and allow ONLY single-family homes, we realize the Council will probably approve at least the townhouse portion of the Rebay plan.

The Planning and Zoning Commission did not address the connector road through West Rehoboth, except to refer to DelDOT's requirements. The Council must discuss the adverse affect this road will have on the Holland Glade Road/Route 1 intersection, especially as another egress out of Rehoboth. **We ask the Council to stipulate that the access road be a "local community road", with**

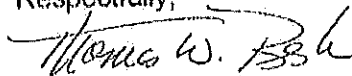
**appropriate speed bumps and residential speed limits.** In light of the recently completed bike path and the danger that exists for those using this path to cross Holland Glade Road along with the Rehoboth Little League ballpark traffic and a soon to be built Epworth Methodist Church, it would be unfathomable to allow this development to proceed without strict conditions being placed on this roadway.

**In summation we would like to reiterate:**

- We think the plans for this development have been altered significantly and the Council should re-open comments and input from supporters and opponents alike.
- We want ONLY single-family homes adjacent to our Henlopen Keys community.
- Henlopen Keys roadways should NOT be connected in any way to the Canal Point development.
- The Senior Center should be situated on at least six acres East of the Connector Road and be buffered from existing communities by an appropriate distance.
- If multi-family is inappropriate for the area around the pond as the Planning and Zoning Commission has suggested, it should be inappropriate for the entire parcel of land. Only single-family (or townhouse) units should be approved for this development.
- The Council should support the LOWERED density that Planning and Zoning recommended.
- The connector road must ONLY be used for local community traffic and not as another means of egress out of Rehoboth.

We thank you for your time and consideration of our views. We appreciate the opportunity to share our concerns.

Respectfully,



Thomas W. Resh

  
Jeffrey R. Meyers

Henlopen Keys  
2 Gary Avenue  
Rehoboth Beach, DE 19971

cc: Honorable George B. Cole  
Honorable Dale R. Dukes  
Honorable Finley B. Jones  
Honorable Vance Phillips  
Honorable Lynn J. Rogers

RE: C/Z #1538  
Futcher Farm (lands of Rebay LLC)  
Rt 271 Holland Glade Road

SANDALWOOD 82  
**RECEIVED**  
JUN 09 2004  
PLANNING & ZONING  
COMM. OF SUSSEX COUNTY

Dear Sussex County Council:

As residents of the adjacent communities of Sandalwood and Henlopen Keys that will experience and live with the results of this new planned community we are not opposed to many of the items contained within the RPC application but are strongly opposed to several items.

We are not opposed to the multi family housing units or townhomes as located on the plans. We recognize the value of these increased areas of density in order to allow open space and the preservation of woods, wetlands, and natural habitats for wildlife.

We do oppose ANY use other than residential housing backing up to the existing residential communities of Henlopen Key and Sandalwood. We oppose commercial use of any kind in this complex. It's negative effects are not desired and it is not needed.

We recognize the inevitability of traffic caused by this new development. The potential development of the surrounding farms has always existed and the owner has that right. However, we did not anticipate a road connecting Holland Glade Road to Rehoboth and the large volume of traffic it will handle. Recognizing that in all likelihood this road will be approved we ask that the developer be required to enter into a perpetual agreement requiring a traffic signal at the intersection of Rehoboth Avenue Extended and Church Street when allowed. We ask that the developer be required to work with Deldot and the county to pursue the completion of a road behind the Tanger Outlets and Kmart to relieve traffic from the intersection of RT1, Holland Glade Road and inside Tanger Outlets. These roads are now under consideration by Deldot as part of the Rehoboth Beach Entrance Improvements program. A copy of the plan for this road is attached. As residents of the local communities we know that these intersections are already failing during the summer. Without an improved infrastructure the proposed connector road will only exacerbate an existing problem to unacceptable levels.

Deldot has recommended that the developer consider street connections to Henlopen Keys. The developer has not shown such connections on their plans and our communities are adamant in our objection to these ties ins.

We recognize the need of the senior citizen community for a new center and commend the developer for making this commitment to them. Based on the description of membership levels, meals desired to be served and other services provided we believe this 1.5 acre parcel to be grossly undersized and not appropriate backing up to existing residential housing. If the developer is committed to this use we do not oppose it placed at a more appropriate location within the development.

We also commend the developer for donating land to the county for an undefined future use such as a firestation or ambulance facility. It is again our opinion that any use such as this is not appropriate located immediately adjacent to residential housing. We do not find it inconsequential that the developer chose not to back these uses into their project. We do not feel that Sandalwood should be forced to suffer the negative effects of these noble special interest uses the developer has used to garner support for this application.

page 1

Our communities already suffer from the traffic, bright lights, and loudspeakers from the 14 acre Rehoboth Little League facility. Newspapers have now reported that the Epworth United Methodist Church is seeking to swap its ownership of that property for land along Holland Glade Road to build a facility to accommodate its large congregation that outgrew their existing facility after having sold off valuable property in the city. We submit to the county that our communities along Holland Glade Road not be the repository for groups that failed to provide for future expansion or have sold off valuable properties within the City of Rehoboth. The failure of parking facilities in the City of Rehoboth are not good reason to obligate Sussex County to rezone property for their nonconforming use alongside existing residential homes.

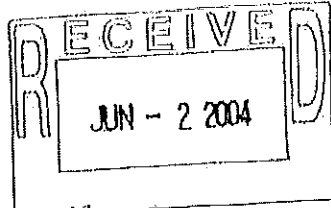
Having made our objections to all these items we now attempt to compromise and provide a potential solution to the needs of these groups and the rights of a property owner. We ask that the developer be required to keep intact the existing woods between Sandalwood and Canal Crossing Boulevard. The developer should be allowed to develop the remaining land alongside Canal Crossing Boulevard into 1/2 acre single family lots. These lots would be allowed density above the proposed 617 units asked for under the RPC. The proceeds of the sale of several of these lots should be donated to the Senior Center and the county so that they may adequately assess and meet their needs in locations appropriate to their uses. The proceeds of the remaining lots remain with the developer to offset costs of infrastructure improvements asked for and the loss of anticipated but not entitled revenue from commercial property. We hope that keeping the woods will help offset the Department of Natural Resources and Environmental Control concerns over lost forestation and wildlife habitat.

Finally we ask that the developer grant an easement to the State or Rehoboth Little League for a sign on the property at an appropriate location across from the entrance to alleviate traffic problems caused by this hidden entrance.

Signed:

Signature	Print name	Address	Community
<i>[Handwritten Signature]</i>	Millborn Craig Jr	1 Sandalwood Drive	Sandalwood
<i>[Handwritten Signature]</i>	Dunde Willis		
<i>[Handwritten Signature]</i>	C. W. Rosta	2 Sandalwood	Sandalwood
<i>[Handwritten Signature]</i>	Ann Miller	18 Sandalwood Dr	Sandalwood
<i>[Handwritten Signature]</i>	Chuck Miller	18 Sandalwood Rd	Sandalwood
<i>[Handwritten Signature]</i>	HARRY M. HARRIS	20 SANDALWOOD DR	SANDALWOOD
<i>[Handwritten Signature]</i>	CATHERINE ROSE	16 Sandalwood Dr	Sandalwood
<i>[Handwritten Signature]</i>	CATHY ANDERSON	16 Sandalwood Dr	Sandalwood
<i>[Handwritten Signature]</i>	DAVID J. BERILLA	12 SANDALWOOD DR	Sandalwood
<i>[Handwritten Signature]</i>	DENISE BERILLA	12 SANDALWOOD	Sandalwood
<i>[Handwritten Signature]</i>	Paul Sube	25 Sandalwood	Sandalwood
<i>[Handwritten Signature]</i>	JAMES E. HOMES	25 SANDALWOOD	SANDALWOOD
<i>[Handwritten Signature]</i>	STEPHEN J. SCHILLY	24 SANDALWOOD DR.	SANDALWOOD
<i>[Handwritten Signature]</i>	ROBERT RAHAMAN	24 SANDALWOOD	SANDALWOOD
<i>[Handwritten Signature]</i>	Paul E. Mackley	26 Sandalwood Dr	Sandalwood

Signature	Print name	Address	Community
<i>Tom Comer</i>	TOM COMER	30 SANDALWOOD DR.	SANDALWOOD
<i>Robert L. Posey</i>	ROBERT L. POSEY	27 SANDALWOOD DR	SANDALWOOD
<i>Mary L. Posey</i>	MARY L. POSEY	27 SANDALWOOD DR	SANDALWOOD
<i>Brenda Arbell</i>	BRENDA ARBELL	27 SANDALWOOD	IL
<i>Timothy Whites</i>	TIMOTHY WHITES	37 SANDALWOOD DR	SANDALWOOD
<i>Debbie Causey</i>	Debbie Causey	3 SANDALWOOD DR	SANDALWOOD
<i>Sally Causey</i>	Sally Causey	IL	IL



18909 Holland Glade Road  
Rehoboth Beach, Delaware 19971  
May 31, 2004

Sussex County Council  
1 The Circle - P.O. Box 589  
Georgetown, Delaware 19947

Mr. Robert L. Stickels  
County Administrator and  
Council Members

RE: C/Z #1589 Fatcher Farm  
Rebay LLC Canal Point...  
\*\*\* RE: "WETLANDS" Stream/Ditch  
\*\*\* Fraser, Fisher, Fraser/Futche

Dear Mr. Stickels and Council Members:

My modest home is located directly fronting the former County Road #271, now named Holland Glade Road. Parcel #336 on Sussex County Tax Map: 3-34-13 with 5.29 acres. Directly beside this parcel, is my daughters home.

n/o Vivian A. F. Fisher - Parcel of 100' X 200' home and her adjoining Parcel #335.02 of 1.95 acres.

n/o William and Maria Fraser - Parcel #335.01 - 4.26 acres. (my son & fam.

\*\*\*  
\*\*\*  
\*\*\*  
\*\*\*

Now Directly in back of our 3 homes, we own PARCEL #335 of 8.47 acres... CONTIGUOUS to the FUTCHER FARM/REBAY LLC CANAL POINT.....

TO A POINT IN THE CENTER LINE OF A DITCH/STREAM... (another big concern) Needless to say where there is a stream - "WETLANDS" (swamp, bog, muck.) by nature occur. Some contribute significantly to ground water recharge, from environmental impact the flora and fauna, normal drainage and/or how related to flood control, erosion, etc... etc...

Also, our homes and the back parcel adjoining the Fatcher Farm are all in beautiful woodlands.

Much of the wetlands of this State have been lost or despoiled by the unregulated dumping, filling, pushing and pulling. PROMISES AND JUST LOOK THE OTHER WAY... Too bad, shame on us to allow such to happen.

I have attended both the Planning & Zoning meeting and County Council meeting and signed 2 petitions, Against the Commercial Strip and AN ordinance to amend the Comprehensive Zoning Map from MR Medium Density Residential District to a MR-RPC Contains 180.60 acres +/-...

In early 1950\* BEFORE todays TRAFFIC, TRAFFIC..MY FAMILY & I gave RIGHT-OF-WAY of approximately 1,402 feet long by 13 feet deep, to have this former dirt/farm road black topped, by the State/Sussex County. On this same presently named Holland Glade Road. No cents or dollars traded hands above or below any table!!!

For the approximately 20 acres my immediate family and I own is heavily forested and intermixed with forested wetlands, adjoins the Fatcher lands.

Thank you for your consideration and good works. Respectfully submitted,  
Patricia Rust Fraser

*Patricia Rust Fraser*

Vivian A. Fisher  
18879 Holland Glade Rd.  
Rehoboth Beach, DE 19971

*Ms. Lawrence Lank*  
Sussex County Council  
#1 The Circle P.O. Box 589  
Georgetown, DE 19947

June 2, 2004

Mr. Stickles and Council Members

RE: Zone change for Rebay LLC Canal Point

I own property on Holland Glade road and am a part owner of property that is adjacent to the aforementioned property. I don't feel you should grant them the approval they seek. They tried to first get annexed into Rehoboth city limits, which thankfully was denied.

Please take into consideration that much of what has already been approved in the beach area has not been completed and the full potential of pitfalls and problems have not yet come to light. When problems are realized from all these developments who is going to be accountable to resolve the troubles? Four of the Council members seem to not care about the resort, so long as financial rewards are gained for the whole county and those members don't have to cope day to day with these frustrations.

How many more millions of gallons of water will the sewer plants be able to process? How much longer will the well systems continue to sustain all these property improvements? How much more traffic to spill onto clogged Route One? Also, bear in mind that everyone needs to go to the grocery store sometime, and ALL three grocery stores are on Route One and a fourth will soon accompany them once Safeway gets constructed.

Please deny approval of this projects request for increased density and its commercial strip, which is to skirt the delicate stream run off into the Lewes Rehoboth Canal, and destroy more forest area.

Sincerely,

*Vivian A. Fisher*  
Vivian A. Fisher

June 7, 2004

The Honorable George B. Cole  
Sussex County Council  
2 The Circle  
Georgetown, DE 19947

RECEIVED

JUN 09 2004

PLANNING & ZONING  
COMM. OF SUSSEX COUNTY

Dear Councilman Cole:

As a result of recent developments with respect to ReBay LLC's proposed development of Canal Point (C/Z #1538), I am writing as the representative of the Glade Property Owners' Association to request that the public record on this rezoning issue remains open, and that further new information be made available to the public for review and comment as it becomes available.

As you know, there has been considerable opposition to this rezoning request and the builder's intention to include multifamily dwellings and commercial elements within this project. It is our understanding that as of June 2, 2004, ReBay LLC has transferred the six commercial acres in Canal Point to the Cape Henlopen Senior Center, thereby eliminating any plans for commercial development in Canal Point. We believe that this is a step in the right direction; however, there are still a number of unresolved issues remaining with respect to this project.

On January 10, 2004, Constance Holland, Director, Office of State Planning Coordination submitted a 10-page letter to Mr. Lawrence Lank summarizing input from state agencies on the Preliminary Land Use Service for Canal Point (Attachment 1).

The letter pointed out several concerns about traffic, historic preservation, sediment and storm water management, natural buffers, water supply, wetlands, open space/habitat, TMDLs, nutrient management issues, natural heritage and endangered species, and ERES waters.

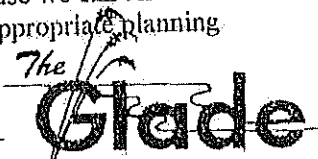
As of May 3, 2004, Ms. Holland, again in a letter to Lawrence Lank, indicated that ReBay LLC had not addressed these concerns (Attachment 2).

Moreover, increased traffic and congestion, along with resultant noise and pollution, have been foremost in the minds of nearby residents. Ms. Holland recognized in her January letter that with respect to traffic issues, that "The County should consider taking additional steps to receive input from the residents...recognizing that something more than the normal notification and public hearing process is appropriate."

Certainly, this is a reasonable consideration since DELDOT itself has made no determination on the type of infrastructure alignment that would be in place to support ReBay LLC's Canal Point Project. This is extremely important, because we can all see the current effects on Route 1 and its arteries as a result of a lack of appropriate planning in these matters.

Property Owners Association, Inc.

16 Glade Farm Drive  
302-227-6003

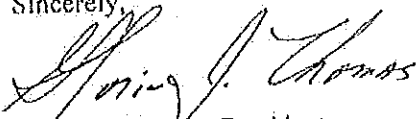
  
Rehoboth Beach, Delaware, 19971



Because the potential development is located in part of the greater Cape Henlopen Resources area, it is important to deliberate all possible ramifications of such building in terms of both human and environmental impacts.

There are too many matters that are as yet unresolved and issues that should be addressed publicly. Consequently, we respectfully request that the public record remain open on this ReBay LLC rezoning application until all appropriate information is presented to the public for review and comment.

Sincerely,



Gloria J. Thomas, President  
Glade Property Owners' Association

cc: Hon. Dale R. Dukes

RECEIVED

JUN 09 2004

PLANNING & ZONING  
COMM. OF SUSSEX COUNTY

RECEIVED

June 8, 2004

Sussex County Council  
2 The Circle  
Georgetown, DE 19947

JUN 09 2004

PLANING & ZONING  
COMM. OF SUSSEX COUNTY

Gentlemen:

Thank you for the opportunity to respond to ReBay LLC's request for re-zoning (C/Z #1538) of the property known as the Fatcher Farm on Holland Glade Road.

Although ReBay no longer plans to put commercial enterprises within their residential project, we believe that, as currently designed, this multi-family housing project is not in the best interests of the community or the natural space and environment of the greater Cape Henlopen Resource area. The high density of the project will have a negative impact on an already congested area. Further, this type of multi-family house is out of character with the rural nature of the single-family home communities on Holland Glade Road.

The Council should not rush to judgment in approving this re-zoning request. There are still many unanswered questions and unresolved issues surrounding this project. These are briefly summarized here.

- ReBay LLC has not responded to the myriad questions and concerns of the Office of State Planning, which represents DelDOT, State Historic Preservation Office, Department of Agriculture, and DNREC. A 10-page letter, dated January 10, 2004, to Lawrence Lank, Constance C. Holland, lists their many concerns affecting the area. In her follow-up letter of May 4, 2004, also to Mr. Lank, she indicates that ReBay LLC has not responded to them. (Attachments 1 and 2.)


The concerns of these agencies are relevant and important for the greater Cape Henlopen Resource area. They deal with wetland areas and lots encroaching on them; riparian forests, TMDLs, and other outstanding issues.

- In February 2004, staff from the Delaware State Historical Site made a site visit to the Canal Point project, indicating that "...there are known Indian archaeological sites within the development area and the probability is high that there are additional sites that could provide important information about Indian inhabitants of what is now Delaware...the Indian occupation in this area began as early as 500 B.C.". In a letter dated March 8, 2004, Anne M. McCleave, asked the Canal Point Project Manager, W. Zachary Crouch, for additional access to the project area. (Attachment 3.) It is my understanding that as of two weeks ago, Ms. McCleave had not heard from ReBay and was going to make her request again.

There should be some thought and planning as to how these artifacts are to be preserved, not just merely recorded prior to plowing fields and removing trees.

Property Owners Association, Inc.

16 Glade Farm Drive  
302-227-6003

  
Rehoboth Beach, Delaware, 19971

- DelDOT's letter dated May 4, 2004, to Mr. Lank discussed the Traffic Impact Study (TIS) for Canal Point. Del DOT's letter reiterated many of the concerns that local residents have about continued traffic congestion in the area. The "key improvements" in the TIS were not even supported by DelDOT. DelDOT recommended that the alternatives being considered as part of the Rehoboth Beach Area Improvement Study would be better solutions than the TIS recommendations. DelDot is, in effect, recommending alignment with the forthcoming traffic solutions of their work groups. (Attachment 4.)
- In addition to requiring that all of DelDot's recommendations be followed, prior to any issuance of building permits, the county should require that the developer fund all costs associated with a traffic signal at the intersection of Holland Glade Road and the northbound lanes of Route 1. In the event that DelDOT constructs a road connecting Holland Glade Road to a controlled DE 1 intersection north of Holland Glade Road, these funds would be used for those road improvements and this traffic signal would not be constructed. (This signal could be timed to synchronize with the Route 1 signals at Shuttle Road and Rehoboth Outlets Seaside, resulting in minimal impact on northbound Route 1 traffic.)

The density of this project will only add to traffic congestion. It is only common sense, that supporting infrastructures be in place before any development is approved. It is time to be sensible and put the "horse before the cart."

- As currently designed, the Canal Point project does not adhere to nor take into account conservation standards delineated by the Governor's Livable Delaware Initiative. This program emphasizes "livable" and "beautiful" communities, with more open space, conserving natural and scenic assets. This means designing around the central principle of land conservation. Canal Point is a typical conventional development plan. (Attachment 5.) Conservation design would do away with multi-family housing in favor of more open space, narrower streets, and small lot sizes with single-family cluster houses facing each other across community green space. In such planning, typically half or more of the buildable land is preserved as open space and is considered a density-neutral approach. (Edward T. McMahon, *Better Models for Development in Delaware*, March 2004, p.42.) Everyone benefits, including the developer.

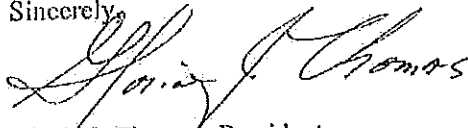
The Council, at minimum, should ask ReBay LLC to re-think its design and come up with one to preserve the Cape Henlopen Resource area's natural resources and environment. The Council had the foresight to do this with respect to "The Retreat" (Love Creek) development built by Caldera and with the Robino development, "The Reserves of Nassau," near 5 Points, which affected Canary Creek. Both developments had environmental impacts and were out of character with the rural nature of the surrounding areas. To show his good will, the developer should provide an open space site design that would benefit everyone. (Attachment 5.)

- There has been no discussion regarding the 4.93 acres that the developer plans to donate to the county and how it will be used. Will residents find out only too late that it will become a recycling center or some other eyesore?

The county needs to let the public know how it will use this land, if it accepts it, and give the public an opportunity to respond.

In conclusion, these are just a few reasons why it is premature to approve ReBay LLC's re-zoning application. As information becomes available regarding these unresolved issues, the public needs to be kept informed and afforded the opportunity to respond. This is only fair and reasonable. We believe that it would be unresponsive and irresponsible for the Council to consider approving ReBay LLC's re-zoning application at this time.

Sincerely,



Gloria J. Thomas, President  
Glade Property Owners' Association

Attachments - 5

RECEIVED

JUN 09 2004

PLANNING & ZONING  
COMM. OF SUSSEX COUNTY

RECEIVED

JUN 09 2004

RE: C/Z 1538  
Fletcher Farm agreement between Rebay LLC  
Holland Glade Road

PLANNING & ZONING  
COMM. OF SUSSEX COUNTY

June 8, 2004

Dear Sussex County Council:

I am writing this letter to express my concern about the application that has been submitted by Rebay LLC. There has been much controversy over this application and to be perfectly honest, a lot of confusion as well.

At the last council meeting (May 25) Hal Dukes stated that he had no further documentation to submit, after submitting a haphazard list of "commercial proposals" to the Council. Although he had been encouraged to "think about this" before submitting, he concluded that he had and this was his final documentation. The Council closed any further submitted documentation for the support of this application and gave the opposition 15 days to submit documentation.

Now several local papers have articles claiming that Rebay is going to give more land to the seniors for the senior center and forego commercial property rights. What does this mean? Something certainly does not jive here. One might be led to believe that there are other motives behind this sudden generosity of Rebay. In fact, Rebay has not even settled on this property and rumor has it that they do not even intend to develop it but to "flip" it for a considerable profit --- if they get the rezoning they are requesting.

With that in mind, I urge the Council to deny any change in rezoning this property. This includes allowing townhomes and condos in this proposed development, not to mention the commercial requests. In the 3 developments that border Holland Glade Road (Sandalwood, Henlopen Keys, and the Glade) there are no such buildings. Only single family homes that are on at least 1/3 of an acre. There is plenty of open space and all are very desirable communities to live in.

Please also keep in mind the new bike and walking pathways that cross Holland Glade Road. I can not tell you how many times bikers and walkers go directly in front of traffic and endanger themselves. With the traffic that already exists on this road, an accident is likely to happen. With increased traffic from a new development, someone is going to be seriously injured, if not fatally.

Del Dot has proposed some ideal traffic solutions to route 1 that were very favorable to the community. One of the more favorable solutions is building a new road directly behind the outlets and Tomatoe Sunshine. This allows for 5 entry routes off of route one. This new road would be far away from the existing developments and the bike path. Traffic would certainly not be an issue. With this in mind, there does not need to be another connector road to Rehoboth by Rebay in this proposed development. Perhaps they could connect the proposed development into this road.

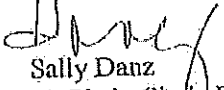
I urge the Council to seriously take in mind the consequences of permitting rezoning to allow condos, townhomes, and commercial entities in this proposed development. More traffic, noise, and safety concerns to a relatively peaceful area. Also, I urge Council to uphold any decisions that will be made to the "new developer" if this property is "flipped" and not developed by Rebay.

In conclusion, if Rebay is as committed to the senior center as they say they are, perhaps they would consider giving the "old" Ames building on route 1 to the seniors to be refurbished since they own this property outright. There is plenty of space and parking and access to emergency routes if needed. This seems to be a more reasonable solution then to embed it within an existing neighborhood.

Should this not be an option, then make stipulations that the Senior Center back up to the new proposed development and not to Sandalwood or Henlopen Keys. This seems only fair to the communities of Sandalwood and Henlopen Keys.

I trust that Council will make the right decision for the betterment of all of the communities involved—the Glade, Henlopen Keys, and Sandalwood. Please take the time needed to investigate this application further before making your final decision. Our communities are depending on you. Thank you for your time and consideration in this most important matter.

Sincerely,

  
Sally Danz  
50 Glade Circle East  
Rehoboth Beach, DE

Citizens Coalition, Inc.  
PO Box 56  
Nassau, DE 19969

May 6, 2004

Jack Allen, Chairman  
Sussex County Planning and Zoning Commission  
Georgetown, Delaware

Dear Chairman, Allen:

Citizens Coalition, Inc., a 501 (c) 3 non-profit watchdog organization incorporated in the State of Delaware, has represented many citizens mainly in Coastal Sussex County now going on ten years. The application before you, C/Z 1538, represents what we have seen over the years as a continuing exploitation of Coastal Sussex to the detriment of its citizens and taxpayers. As a result we oppose this application.

We oppose it for many reasons: First, we believe that in light of the issues before you and the size of the development and the cumulative impact it represents, DelDOT has recommended in its letter of May 4, 2004 that the applicant be completely responsible for access to this project. Further, DelDOT has rejected the developer's traffic engineers recommendation regarding any improvements on Route One. Because the applicant is responsible for access, nothing should go forward until the exact alignment of this recommended road is known. Second, we believe that any development in this environmentally sensitive area so close to our precious wetlands and tidal waters deserves more than a cookie cutter development that the developer has the nerve to call a Residential Planned Community or RPC.

This application is at best premature in its presentation and at worst shows a clear disregard for the governor's Livable Delaware program that promotes development favorable to the environment and the community. Its sheer magnitude on a rural road is clearly not sustainable development. Its cookie cutter, uncreative design shows open space not for the sake of good land use but for the sake of simply providing open space. ~~Where are the bike paths? Where are the sidewalks?~~ When are we going to see responsible land use in the form of cluster housing that makes open space a priority and major feature rather than an incidental amenity?

Because of the massive size of this development, we believe that the infrastructure must be in place before any development even begins. Further, a closer look at the site plan presents what we perceive as a serious encroachment of building lots on the surrounding wet lands. With 617 units on 142 acres or nearly 4.5 units per acre, this density is disturbingly high for development in so sensitive an area.

Allowing commercial use on this property is also not appropriate. This site is so close to a sea of commercial sites that provide an almost unlimited redundancy of choices of services, products and restaurants. We oppose any commercial use on this site.

Allocating land for a senior center is certainly a noble gesture but one we believe is inappropriate. The positive short-term effects of a new senior center will be far outweighed, in fact overwhelmed, by the long-term negative impact this development will have on the entire coastal community, the environment and our quality of life. In the nearly 40 years I've lived in Delaware I've witnessed time and time again, developers using clever ruses such as this to divide communities and place community factions


Rec'd 10.6.04,  
P&Z Hearing

at odds. We must not be misled by yet another wolf in sheep's clothing. A senior center can be built in many other locations and have far less negative consequences than this development will create.

We ask you to defer taking any action on this zoning change at this time. Further, in view of the possible negative consequences this development could result in and our belief that this application is premature, we ask that you recommend denial of this site or at least reject it and recommend that the applicants reevaluate their plans.

In any case, we request that the public record remain open and that this application not go before County Council. We would like you to require the developer to review the plan, provide a time-line for completely upgrading the necessary infrastructure before any development begins and relocate all of the lots that encroach on the wetlands or provide a minimum 100 foot buffer. We think that if the developer makes a sincere commitment to create a conservation design, that he eliminates multifamily housing and commercial uses, provides permanent user-friendly open space and creates a community that is compatible with the surrounding single-family residences on Glade Road, the people of Coastal Sussex would derive long-term benefits by such prudent measures.

Sincerely,

A handwritten signature in cursive script, appearing to read "Michael R. Tyler".

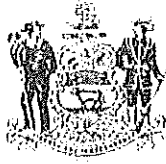
Michael R. Tyler, president  
Citizens Coalition, Inc.





BAIRD  
MANDALAS  
BROCKSTEDT LLP

# EXHIBIT B



STATE OF DELAWARE  
EXECUTIVE DEPARTMENT  
OFFICE OF  
STATE PLANNING COORDINATION

RECEIVED  
MAY 10 2004  
PLANNING & ZONING  
COMM. OF SUSSEX COUNTY

May 3, 2004

Mr. Lawrence Lank  
Sussex County Planning  
P.O. 417  
Georgetown, DE 19947

RE: LUPA 04-07-04-04; Rebay, LLC (Previously Canal Point)

Dear Mr. Lank:

The State has reviewed the proposed rezoning of 180.60 acres located on the southeast side of Holland Glade Road, 3,150 feet northeast of Route One and west of Rehoboth Beach from AR-1 to MR/RPC for the purpose of developing a 617 unit residential planned community. It should be noted that the State agencies originally commented on this project on January 10, 2004, after a December 17, 2004 PLUS meeting regarding this site. (copy attached)

In our response letter, several State agencies commented regarding this project. The purpose of this letter is to inform the County of any changes to our original comments.

Department of Transportation

In our January letter, DelDOT commented that the traffic impact study was in the process but they had no comments at that time. DelDOT expects to have the TIS completed during the first week of May, 2004, and will comment directly to the County. Until that study is completed and recommendations are made, DelDOT has noted that their comments are still valid, as follows:

- DelDOT recommended that the County make an extra effort to obtain input on this application from the residents of West Rehoboth.

THE DELAWARE OFFICE OF STATE PLANNING COORDINATION  
540 S. DUPONT HWY. • THOMAS COLLINS BUILDING, THIRD FLOOR • DOVER, DE 19901  
PHONE: (302) 739-3090 • FAX: (302) 739-6958 • WWW.STATE.DE.US/PLANNING

- DelDOT asked that the developer consider providing street connections to Henlopen Keys and stub streets to adjacent lands that front on Holland Glade Road. The State is unsure if the developer has included this in his site plan due to the fact that they have not a revised plan.

#### **State Historic Preservation**

The State Historic Preservation Office has been in contact with the developer to visit the site and determine the archaeological sites on the property that are known to exist. They met, on site on February 24, 2004 but because of ground conditions and overgrowth, the sites could not be located. The SHPO followed up with a letter requesting additional access to the site once it had been plowed; however, the developer responded that they did not plan to plow the fields. The SHPO responded that they would like Dan Griffith, Director of Historic and Cultural Affairs, to visit the site, as he was one of the archeologists who surveyed the property in the 1970s when the known sites were studied.

The State Historic Preservation Office would like to visit the project site before any construction begins so that they can document the archeological sites before they are potentially harmed. The State asks that the County require the developer to have these sites marked before development of the property.

#### **Department of Agriculture**

In January the Department of Agriculture recommended a forest mitigation plan to preserve trees during the construction process when possible and allow for improved home design and construction to enhance the resource. Further, the developer was encouraged to provide a diverse landscape plan that includes native trees and shrubs and the DDA extended its services to assist the developer with the project.

It is unclear at this time if the developer has planned a forest mitigation plan; however, we would still recommend that it be done.

#### **Department of Natural Resources and Environmental Control**

In the January letter, we provided five pages of comments (see attached) regarding natural areas, sediment and stormwater management, water supply, wetlands, TMDLs, nutrient management, soils, natural heritage and endangered species, BRES waters, and habitat. These comments included issues regarding the development, site plan suggestions, and regulatory comments.

The Department of Natural Resources and Environmental Control has stated, through the LUPA process, that they have had no further contact with the developer regarding this site and no new site plans were provided. Therefore, our DNREC comments given in the January 10, 2004 letter stand as written.

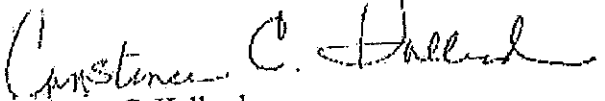
LUPA 04-07-04-04  
Rebay, LLC  
Page 3 of 3

State Fire Marshals Office comments that were given in January were advisory comments regarding what information would be needed on the final submittals. These comments also still stand.

Thank you for the opportunity to review this rezoning proposal. We encourage the County to consider the comments given to the developer through the PLUS process. Once a decision is reached regarding this proposal, please contact this office so that our records may be updated reflecting your decision.

If you have any questions, please contact me.

Sincerely,

  
Constance C. Holland  
Director



STATE OF DELAWARE  
EXECUTIVE DEPARTMENT  
OFFICE OF  
STATE PLANNING COORDINATION

January 10, 2004

Mr. Zachary Crouch  
Project Manager  
Davis, Bowen & Friedel, Inc.  
23 North Walnut Street  
Milford, DE 19963

RE: Preliminary Land Use Service (PLUS) – Canal Point

Dear Mr. Crouch:

Thank you for meeting with State agency representatives on December 17, 2003 to discuss the Canal Point project. This project is the rezoning and subdivision of a 180.6 acre assemblage of parcels on the southeast side of Holland Glade Road, northwest of Rehoboth Beach to create a residential development. It is our understanding that 283 single family detached houses, 82 townhouses and 252 apartments are planned for the site.

Please note that changes to the plan, other than those suggested in this letter, could result in additional comments from the State. Additionally, these comments reflect only issues that are the responsibility of the State agencies represented at the meeting. The developers will also need to comply with any Federal, State and local regulations regarding this property. We also note that, if annexed, Sussex County is the governing authority over this land; the developers will need to comply with any and all regulations/restrictions set forth by the County.

State Agency comments are as follows:

**Department of Transportation – Contact: Bill Brockenbrough 760-2166**

Contrary to the Request for Review information, the traffic impact study (TIS) for this development has not been submitted yet although DelDOT stated they understand that it is in process. When they have reviewed it, they anticipate commenting to Sussex County on their findings and recommendations.

Hebron Road presently serves as the only access to a low-income neighborhood known as West Rehoboth. Most of the developed properties are rental housing owned by people who live elsewhere. Because it is relatively isolated, this neighborhood has continued to exist despite rising real estate prices in the surrounding area. While the TIS will address traffic issues associated with the effects of connecting Hebron Road to Canal Crossing Boulevard, there are also social and economic issues associated with such a connection. The County should consider taking additional steps to receive input from the residents of West Rehoboth, recognizing that something more than the normal notification and public hearing process is appropriate. Additional measures could include a hearing at a location in or near West Rehoboth and local postings of the hearing notices.

The developer should consider providing street connections to Henlopen Keys and stub street connections to adjacent lands that front on Holland Glade Road. If street connections are not feasible, bicycle and pedestrian connections should be considered.

**State Historic Preservation Office (SHPO) – Contact: Anne McCleave 739-5685**

There is a farm complex consisting of a house and outbuildings on the proposed development parcels. There are also known archaeological sites (at least 8) throughout the development area and a high probability for other historic and prehistoric archaeological sites. The applicant or developer should contact Anne McCleave to allow SHPO to document the historic buildings before they are demolished and to set up a meeting with the archaeologists in their office to discuss ways to avoid or minimize any effects to the archaeological sites.

If there is any federal involvement, in the form of licenses, permits, or funds, the federal agency must comply with Section 106 of the National Historic Preservation Act and consider any effects the project will have on historic resources. The applicants should also be aware of the Delaware Unmarked Human Remains Act (7 Del. Code 54) and contact Faye Stocum in the SHPO office if any human remains are discovered.

**Department of Agriculture – Contact: Bryan Hall 739-4811**

No forest buffer would be required for this site to allow for separation of active agricultural activities. However, the site is heavily forested and inter mixed with forested wetlands. The developer should consider a forest mitigation plan to preserve trees during the construction process when possible and allow for improved home design and construction to enhance the resource. I would encourage the developer to consider connectivity of the green infrastructure to allow for additional recreational opportunities and potential tie-ins to other future development sites. The developer should consider a diverse landscape plan one that includes native trees and shrubs. Finally, the DE Forest service extends its services to assist the developer with this project.

**Department of Natural Resources and Environmental Control**

**Sediment and Stormwater Management – 856-7219**

A detailed sediment and stormwater plan will be required prior to any land disturbing activity taking place on the site. The plan review and approval as well as construction inspection will be coordinated through Sussex Conservation District. Contact Jessica Watson, Program Manager, for details regarding submittal requirements and fees.

It is strongly recommended contacting Sussex Conservation District to schedule a pre-application meeting to discuss the sediment and erosion control and stormwater management components of the plan. The site topography, soils mapping, pre and post development runoff, and proposed method(s) and location(s) of stormwater management should be brought to the meeting for discussion.

A Notice of Intent (NOI) for Stormwater Discharges Associated with Construction Activity must be submitted to DNREC Division of Soil and Water Conservation along with the \$195 NOI fee prior to plan approval.

Applying practices to mimic the pre development hydrology on the site, promote recharge, maximize the use of existing natural features on the site, and limit the reliance on structural stormwater components, such as maintaining open spaces, should be considered in the overall design of the project as a stormwater management technique.

Each stormwater management facility should have an adequate outlet for release of stormwater. Any drainage conveyed onto this site from neighboring properties must be adequately conveyed through the site to the discharge point without interruption.

A Certified Construction Reviewer (CCR) will be required for the site during construction. Contact Sussex Conservation District for details regarding the CCR requirement.

**Natural Areas - 739-3423**

This parcel does contain natural areas listed on the State's Natural Areas Inventory and is within an identified State Resource Area. The entire project area lies within the Cape Henlopen State Resource Area. The forested buffers along the eastern and southern sides of the parcel are part of the Cape Henlopen Natural Area.

The preliminary plan does not provide adequate buffering between the development and the adjacent wetland resources. According to the Statewide Wetlands Mapping Project GIS layer this site contains estuarine and palustrine emergent and palustrine forested wetlands. It is recommended that all lot lines be at least 100 feet from the wetlands on this site. Lots 6 to 9, 14 to 25, 57 – 62 and 68 to 77 all encroach too closely to the wetland resources on and adjacent to this site.

The Department does not feel that forest should be destroyed to create storm water management ponds. This proposal shows two storm water management ponds in what are currently forested areas. The worse of the two is the small dogleg-shaped pond on the southeast side of the development, adjacent to an isolate palustrine emergent wetland. This wetland probably provides breeding habitat for several amphibian species as well as habitat for a number of other species of flora and fauna. It is recommended that DNREC's Division of Soil and Water Conservation and the Sussex Conservation District Office be consulted regarding the practicality of alternative stormwater management practices on this site.

#### **Water Supply - 739-3665**

The project information sheets state water will be provided to the project by City of Rehoboth Beach via a central water system. Our records indicate that the project is located within the public water service area granted to City of Rehoboth Beach under Certificate of Public Convenience and Necessity 99-CPCN-04.

Should dewatering points be needed during any phase of construction, a dewatering well construction permit must be obtained from the Water Supply Section prior to construction of the well points. In addition, a water allocation permit will be needed if the pumping rate will exceed 50,000 gallons per day at any time during operation.

All well permit applications must be prepared and signed by licensed water well contractors, and only licensed well drillers may construct the wells. Please factor in the necessary time for processing the well permit applications into the construction schedule. Dewatering well permit applications typically take approximately four weeks to process, which allows the necessary time for technical review and advertising.

#### **Wetlands - 739-4590**

A wetland delineation should be conducted and verified. It appears that impacts to tidal wetlands may occur due to a trail system located internally within the development. Impacts to waters of the U.S., including impacts to "isolated wetlands" are protected and regulated by the U.S. Army Corps of Engineers (USACE). Tidal wetlands and subaqueous land impacts are regulated by the State Division of Water Resources, Wetlands and Subaqueous Land Section. Individual permits and certain Nationwide Permits from the USACE also require 401 Water Quality Certification from the Wetland and Subaqueous Land Section and Coastal Zone Federal Consistency Certification from the Division of Soil and Water Conservation, Delaware Coastal Programs Section. Each of these certifications represents a separate permitting process. To find out more about permitting requirements, the applicant is encouraged to attend a Joint Permit Process Meeting. These meetings are held monthly and are attended by federal and state resource agencies responsible for wetland permitting.



The current plan also shows impacts to wetlands resulting from stormwater facility construction near the existing pond. Stormwater facilities must be relocated to avoid this wetland and provide appropriate buffers. The developer is also strongly encouraged to move stormwater management facilities outside of forested areas to minimize forest losses. Construction of alternative stormwater facilities would further allow the developer to redesign portions of the project, moving some lots away from waterbodies, increasing buffer widths, preserving a larger portion of forest while maintaining the planned number of lots.

Buffers of 100' or more from waterbodies and wetlands should be employed throughout the site for water quality and habitat benefits. The buffers shown in the site plans in most cases do not meet this criterion, particularly in the northwestern and southern portions of the project site. Further, lot lines should not include any portion of wetlands or their buffer areas. Homeowners are often unaware of laws protecting wetlands and proper permitting channels and unknowingly fill or degrade wetlands within their property boundaries, contributing to cumulative wetland loss. The developers should also strongly consider putting riparian buffers and conservation areas into a permanent conservation easement and clearly marking their boundaries to prevent encroachment.

#### **Habitat - 739-3423**

The open space and perimeters could be better designed to reduce fragmentation by connecting islands and perimeter habitats with travel corridors for wildlife.

Storm water management facilities could be designed to provide aquatic habitats for biodiversity. Large shallow water areas are preferable to small deep ponds.

Buffer strips at least 100 feet wide around storm water facilities and the perimeter of developments will provide habitats for wildlife. These buffer strips should be planted with vegetation that is wildlife friendly and reduce maintenance costs for homeowner associations.

This project represents a major loss of forested wetlands and increases fragmentation of protected state lands in the area. It is, therefore, particularly important that the proposed islands of open space be connected to each other and to the perimeter of the development by travel corridors. Wide buffers of warm season grasses and shrubs around the perimeter of the development are very important.

#### **TMDLs - 739-4590**

With the adoption of Total Maximum Daily Loads (TMDLs) as a "nutrient-runoff-mitigation strategy" for reducing nutrients in the Inland Bays Watershed, reduction of nitrogen and phosphorus loading will be mandatory. A TMDL is the maximum level of pollution allowed for a given pollutant below which a "water quality limited waterbody" can assimilate and still meet water quality standards to the extent necessary to support

use goals such as, swimming, fishing, drinking water and shell fish harvesting. Although TMDLs are authorized under federal code, states are charged with developing and implementing standards to support those desired use goals. The Jurisdictional authority for attaining these use goals will fall under the auspices of Section 11.5 of the State of Delaware's Surface Water Quality Standards (as amended August 11, 1999), and will be achieved via nutrient reductions referred to as "pollution control strategies."

#### **Nutrient Management Issues 739-4590**

Most of the soils occurring on the Southern Coastal Plains of Delaware have sandy surface and/or subsurface horizons. Such soils have rapid permeabilities with little or no phosphorus/nitrogen adsorption capacity; therefore, increased nutrient pollutant loads from such inputs will likely leach into receiving waters of the watershed. This process is further intensified in those soils containing shallow water tables.

The developer is encouraged to select BMPs that provide nutrient control for stormwater and open spaces. Vegetative buffers that require little to no management are recommended. A riparian corridor along streams that is outside of the individual lot lines is encouraged and should be managed through the civic association. Education of the landowners as to proper lawn and landscaping management should be made part of each lot transfer.

Nutrient reductions prescribed under TMDLs are assigned on basis of water quality concerns – that is, the those regions deemed to be of greatest environmental concern will require correspondingly higher levels of nutrient reduction than those regions deemed less environmentally sensitive. In this watershed, these regions are demarcated as high and low reduction zones. The high reduction zone corresponds to the western portion of the watershed, and requires a reduction of nitrogen and phosphorus by 85 and 65 percent, respectively. The low reduction zone corresponds to the eastern portion of the watershed, and requires a reduction of nitrogen and phosphorus by 40 percent.

#### **This project is proposed within the low nutrient reduction zone.**

In order for the applicant to verify compliance with the TMDL mandate, a full nutrient accounting process known as a nutrient budget should be prepared. The developer/consultant should contact Lyle Jones (302-739-4590) in the Department's Watershed Assessment Section for further information regarding the acceptable protocol for calculating a nutrient budget.

It should also be noted that a significant portion of subject parcel ( $\approx 1/3$  to  $1/2$  of parcel) is heavily forested. Forested lands have been consistently shown to be far more effective agents for adsorbing nutrients and other pollutants. Removal of forest cover will almost certainly increase pollutant loading into the Inland Bays and make it more difficult for Delaware to comply with TMDL nutrient load reduction requirements. **From the information presented at the Request for Review meeting on December 17, 2003,**

and the Nutrient Protocol beta Model, Canal Point as presented would increase the nutrient load to the Inlands Bays Watershed.

### Soils

According to the recent soil survey update, the soils in the vicinity of the proposed construction are mapped as Greenwich and Downer. Both Downer and Greenwich are well-drained upland soils. Delineated wetlands are outside the proposed construction area.

### Natural Heritage and Endangered Species

A review of our database indicates that the following rare, threatened or endangered species and/or unique natural communities may be found at or adjacent to the project site:

Scientific Name	Common Name	Taxon	State Rank	State Status	Global Rank	Federal Status
<i>Callophrys irus</i>	Frosted elfin	Butterfly	S1	E	G3	
<i>Libytheana carinenta</i>	American snout	Butterfly	SH		G5	

The Frosted elfin is not only state-rare; it is listed as State Endangered and is considered Globally Rare (fewer than 100 known locations remaining worldwide). Records for these species at or near this site are now considered historical (last observed >20 years old), primarily because we have never searched the area where the specimens were reportedly found. Due to the lack of specific information associated with the specimens (from University of Delaware specimen collection), we are uncertain precisely where these species were observed. Frosted elfin larvae feed exclusively on a state-rare plant (*Lupinus perennis*; purple lupine), which typically grows in dry upland forests with open canopy sunny or partial shade conditions or right-of-ways. Division biologists have never visited this property to search for the host plant or adult butterflies. **The Natural Heritage Program has requested permission to evaluate whether habitat for these species, particularly Frosted elfin and its foodplant, exists on this site.** Surveys cannot be conducted until the spring; more detailed information on survey timing will be provided.

The loss of upland forest is a concern given the close proximity to protected lands owned by the Division of Parks and Recreation. Although the applicant indicates on the form that "all upland woods will remain...", it appears that only trees may be left to stand with houses in most of the understory. This is no longer forest habitat, but instead is wooded suburban landscaping. The wooded lots will not serve as habitat equivalent to an intact, undisturbed forest. Though the area is nearly surrounded by development and, except for protected State Park land, essentially fragmented from larger contiguous blocks of forest, coastal habitats (including forest and shrub-scrub) are very important stopover sites for birds that follow coastlines during migration<sup>1</sup>. This project, if completed as designed,

will result in loss of forest habitat for many wildlife species. Impacts may be lessened to a small degree by preserving and maintaining forest-like habitat completely surrounding homes, including understory shrub and herb layers typical of surrounding forest habitats. The developer is encouraged to explore ways to ensure that community residents will maintain their properties as native woodland, rather than manicured landscaping. The north side of Rehoboth Beach should be evaluated as an example of how woodland habitat can surround homes and lend character to the community.

<sup>1</sup> Mabey, S.E., J. McCann, L.J. Niles, C. Bartlett, P. Kerlinger. 1993. The neotropical migratory songbird coastal corridor study: Final report. A report to the Virginia Department of Environmental Quality to the National Oceanic and Atmospheric Administration's Office of Ocean and Coastal Resource Management pursuant to NOAA Award No. NA90AA-H-CZ839. 72 pp.

#### **ERES Waters**

The Inland Bays and its tributaries are designated as waters having Exceptional Recreational or Ecological Significance (ERES). ERES waters are recognized as special assets of the State, and shall be protected and/ or restored, to the maximum extent practicable, to their natural condition. Provisions in Section 11.5 of Delaware's "Surface Water Quality Standards" (as amended August 11, 1999), specify that all designated ERES waters and receiving tributaries develop a "pollution control strategy" to reduce non-point sources of nutrient runoff through implementation of Best Management Practices (BMPs). Best Management Practices as defined in subsection 11.5(e) of this section, expressly authorizes the Department to provide standards for controlling the addition of pollutants and reducing them to the greatest degree practicable, or where attainable, a standard requiring no discharge of pollutants.

#### **State Fire Marshals Office 856-5298**

At the time of formal submittal, the applicant shall provide; completed application, fee, and three sets of plans depicting the following in accordance with the Delaware State Fire Prevention Regulation (DSFPR):

- a. **Fire Protection Water Requirements:**
  - Water distribution system capable of delivering at least 1000 gpm for 1-hour duration, at 20-psi residual pressure is required. Fire hydrants with 800 feet spacing on centers.
  - Where a water distribution system is proposed for (business/educational/assembly/healthcare/multi-family) sites, the infrastructure for fire protection water shall be provided, including the size of water mains for fire hydrants and sprinkler systems.
  - Where a water distribution system is proposed for single family dwellings it shall be capable of delivering at least 500 gpm for 1-hour duration, at

20-psi residual pressure. Fire hydrants with 1000 feet spacing on centers are required.

- Where a water distribution system is proposed for townhouse type dwellings it shall be capable of delivering at least 1000 gpm for 1-hour duration, at 20-psi residual pressure. Fire hydrants with 800 feet spacing on centers are required.

b. **Fire Protection Features:**

- All structures over 10,000 Sq. Ft. aggregate will require automatic sprinkler protection installed.
- Buildings greater than 10,000 sq.ft., 3-stories of more or over 35 feet, or classified as High Hazard, are required to meet fire lane marking requirements.
- Show Fire Department Connection location (Must be within 300 feet of fire hydrant), and detail as shown in the DSFPR.
- Show Fire Lanes and Sign Detail as shown in DSFPR

c. **Accessibility:**

- All premises which the fire department may be called upon to protect in case of fire, and which are not readily accessible from public roads, shall be provided with suitable gates and access roads, and fire lanes so that all buildings on the premises are accessible to fire apparatus. This means that the access road to the subdivision from Hebron St. must be constructed so fire department apparatus may negotiate it.
- Fire department access shall be provided in such a manner so that fire apparatus will be able to locate within 100 ft. of the front door.
- Any dead end road more than 300 feet in length shall be provided with a turn-around or cul-de-sac arranged such that fire apparatus will be able to turn around by making not more than one backing maneuver. The minimum paved radius of the cul-de-sac shall be 38 feet. The dimensions of the cul-de-sac or turn-around shall be shown on the final plans. Also, please be advised that parking is prohibited in the cul-de-sac or turn around.
- If the use of speed bumps or other methods of traffic speed reduction must be in accordance with Department of Transportation requirements.

d. **Gas Piping and System Information**

- Provide type of fuel proposed, and show locations of bulk containers on plan.

d. **Required Notes:**

- Provide a note on the final plans submitted for review to read " All fire lanes, fire hydrants, and fire department connections shall be marked in accordance with the Delaware State Fire Prevention Regulations"
- Proposed Use


PLUS Meeting  
Canal Point  
Page 10 of 10

- Alpha or Numerical Labels for each building/unit for sites with multiple buildings/units
- Square footage of each structure (Total of all Floors)
- National Fire Protection Association (NFPA) Construction Type
- Maximum Height of Buildings (including number of stories)
- Note indicating if building is to be sprinklered
- Name of Water Provider
- Letter from Water Provider approving the system layout
- Provide Lock Box Note (as detailed in DSFPR) if Building is to be sprinklered
- Provide Road Names, even for County Roads

Preliminary meetings with fire protection specialists are encouraged prior to formal submittal. Please call for appointment. Applications and brochures can be downloaded from our website: [www.delawarestatefiremarshal.com](http://www.delawarestatefiremarshal.com), technical services link, plan review, applications or brochures.

Again, thank you for meeting with State agencies regarding this project. If you have any questions, please contact me at 302-739-3090.

Sincerely,

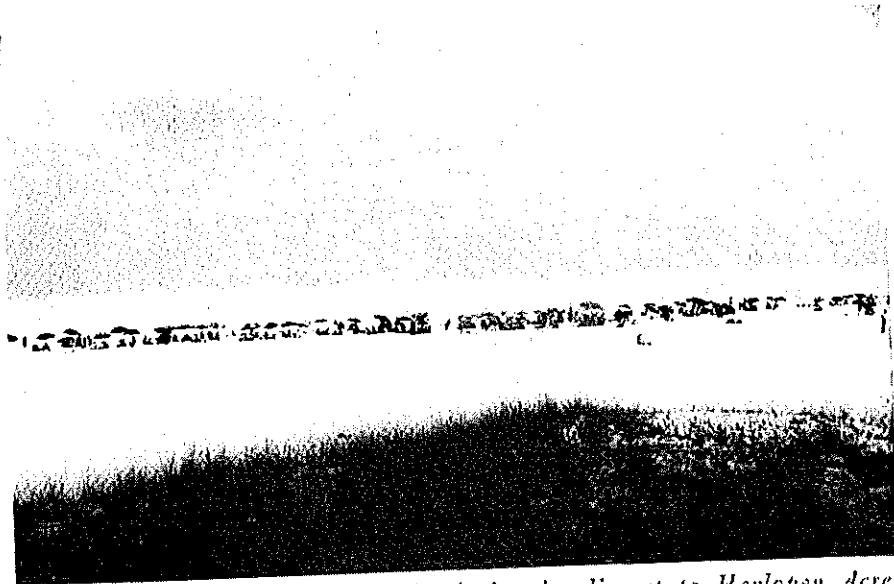
  
Constance C. Holland, AICP  
Director

CC: Lawrence Lank



BAIRD  
MANDALAS  
BROCKSTEDT PC

# EXHIBIT C



*A portion of the magnificent Atlantic beach adjacent to Henlopen Acres*

## HENLOPEN ACRES

*a Seashore Residential Park at Rehoboth Beach, Delaware*



*A Clean, Wide, Sandy Beach on the Atlantic Ocean  
Ideal Inland Waters for Sail & Motor Boating  
Easy Access by Highways, Railways & Waterways  
Nearest Ocean Resort to Washington & Baltimore*





*Air View of Henlopen Acres with Rehoboth Beach and Bay in the background*

## WHY HENLOPEN ACRES?

**H**ENLOPEN ACRES offers you a magnificent Atlantic beach, stately pine woods, smooth inland waters for sailing and fishing, easily accessible over splendid highways, railways and waterways.

### LOCATION

Henlopen Acres adjoins the famous "Pines Section" of Rehoboth Beach, Delaware, one of the oldest and most favored of seashore recreation colonies. A ten-minute walk to the center of town.

### TERRAIN

156 acres of rolling green fields, fragrant pine woods, dunes, beach, pri-



*A recently completed Colonial farmhouse home*

vate roads, and waterways. A harmonious lay-out reinforcing the natural charm of each plot.

### CLEAN ATLANTIC SURF

An unusually wide white sandy beach fronts Henlopen Acres for more than a thousand feet and extends for miles on either side.

### INLAND WATERWAYS

Sheltered inland waterways—more than a mile of government canal and private yacht basins—border especially desirable plots.

### PLOTS AND HOUSES

Plots averaging six-tenths of an acre, laid out to give houses maximum view, trees, and breeze. Houses of approved appearance and location, but not subject to a minimum cost limit.

### MODERATE CLIMATE

Cool summers and mild winters. All-year use of your Henlopen Acres recreation home possible. Balsam air,

salt breezes, and golden sunshine refresh tired bodies and minds.

### *LUXURIANT NATURE*

Finest fresh fruits and vegetables from adjoining countryside, and delicious sea foods. Pines, oaks, cedars, dogwood, holly, and bayberry. A natural bird haven,—300 varieties including game birds.

### *SPORTS*

Surf and still water bathing. Sail and motor boating in Rehoboth Bay. Private anchorage in our own yacht basin. Salt and fresh water fishing. Crabbing. Five miles of beautiful private bridle paths through woods and fields and over dunes. Horses available at Henlopen Acres Hunt and Riding Club. Golf and tennis at the Rehoboth Country Club. Canoeing, shooting, flying, and other diversions. Plots reserved for Henlopen Acres Beach and Yacht Clubs.

### *HEALTHFUL ENVIRONMENT*

Skilled medical and hospital facilities. Approved milk and water supply. Modern hotels, boarding houses, restaurants, and tea-rooms. Wide porched cottages for rent in town. Mosquito elimination program under state au-



*A Cape Cod Cottage recently sold*

thorities. An ideal playground for children. Invigorating and restful for adults. Free from city noise and dirt.

### *SOCIAL LIFE*

The finest class of people from many sections of the United States, among whom one will find congenial, charming friends. Churches, musicals, art exhibits, beach parties, and the movies. Riding, dancing, and academic instructors available.

### *RESTRICTIONS*

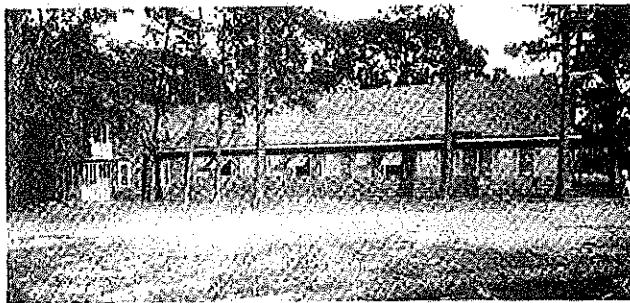
Every essential restriction permanently protects your investment in a residence at Henlopen Acres.

### *PRICES*

Lower prices in proportion to size and protection offered than for any other seacoast development. Quotations on application. Title guaranteed by the Equitable Trust Company of Wilmington, Delaware.



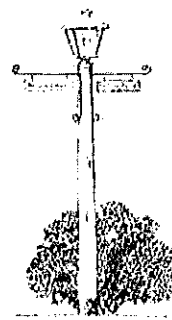
*This gracious home, recalling the pillared plantation mansion, is now ready*



*Henlopen Acres Hunt and Riding Club...this modern stable is a popular center for all equestrian sportsmen*



*The Homestead...built about 1743...restored & enlarged 1930...has the quiet charm found in early Colonial work*



## COMPARE THESE FACTS

### *Sizes and Prices*

Plot frontages . . . . . 110 ft. to 300 ft.  
 average 150 ft.  
 Plot depths . . . . . 90 ft. to 207 ft.  
 average 166 ft.  
 Plot areas . . . . . 14800 to 35060 sq. ft.  
 average 25700 sq. ft. = .6 acre.  
 Plot prices . . . . . \$900 to \$5346  
 average \$2964.

### *Distances*

From Henlopen Acres to  
 Wilmington, Delaware . . . . . 85 m.  
 Washington, D. C. . . . . 113 m.  
 via Annapolis-Matapeake Ferry.  
 Baltimore, Md. . . . . 109 m.  
 via Annapolis-Matapeake Ferry.  
 Philadelphia, Pa. . . . . 112 m.  
 New York City . . . . . 220 m.  
 via Pennsville-New Castle Ferry.

For further information about Henlopen Acres  
 send the enclosed stamped card with your  
 name and address to:

**W. S. CORKRAN, Pres.**  
 HENLOPEN ACRES, Inc.

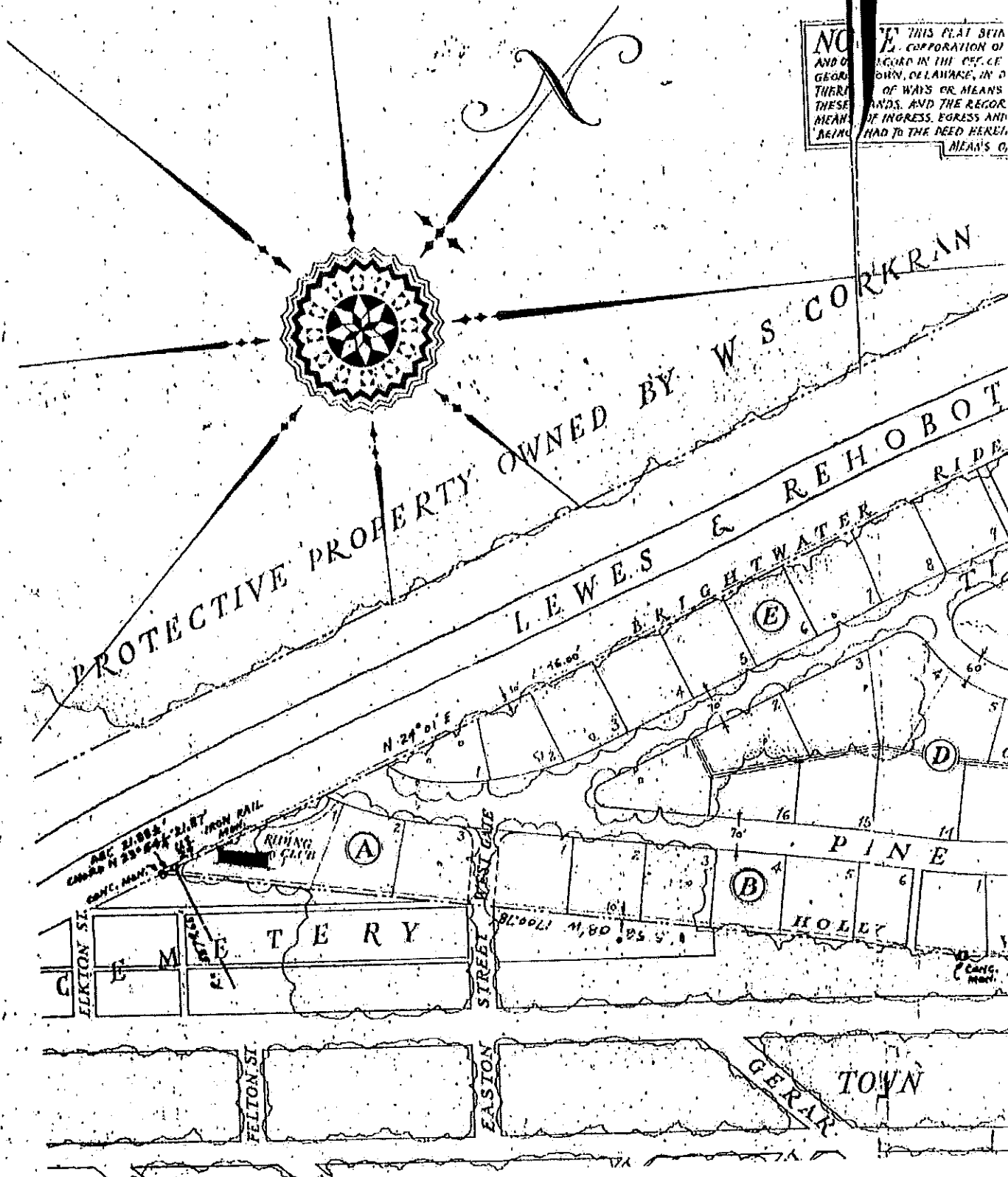
Rehoboth Beach  
 Delaware

or

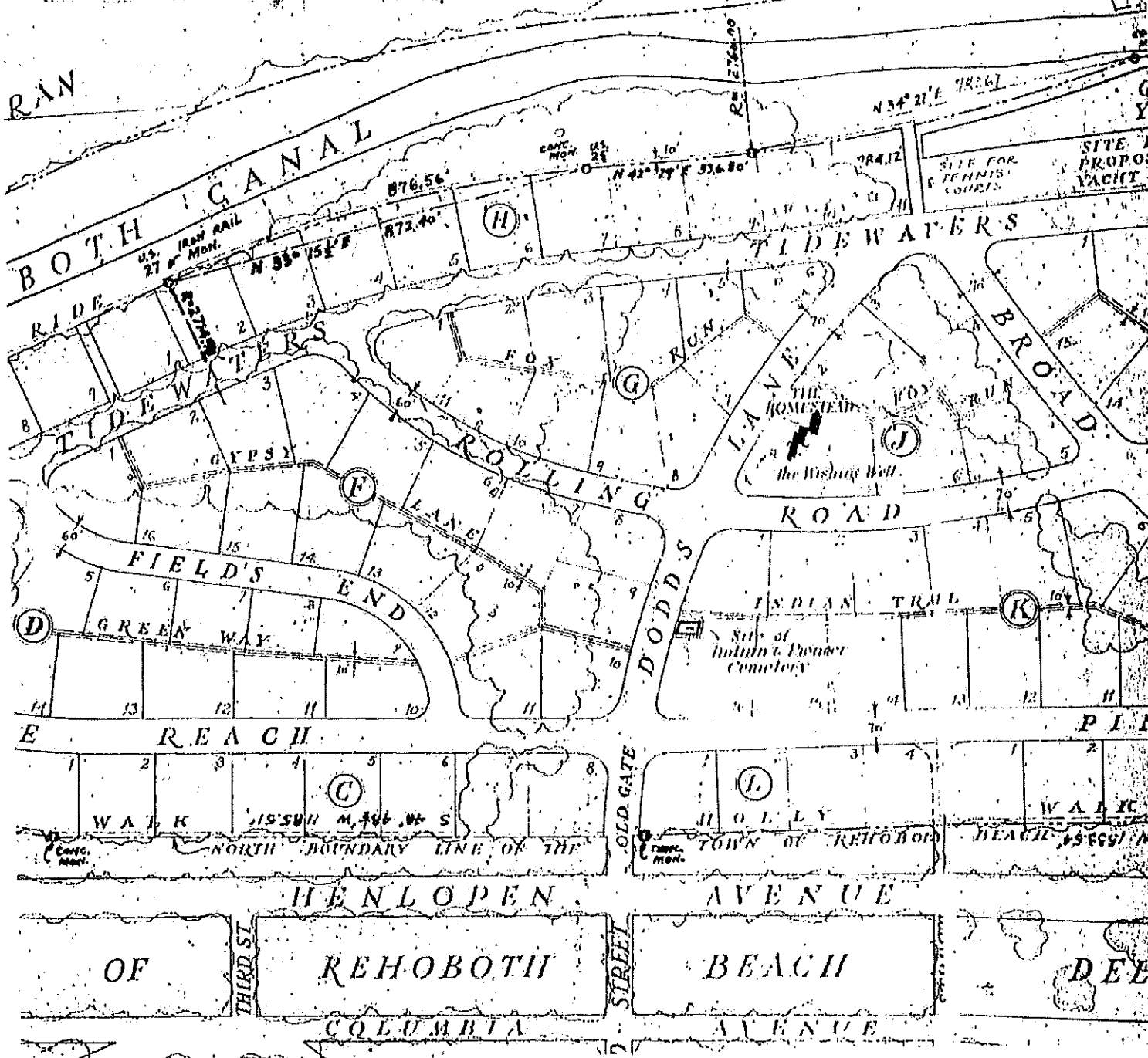
Millburn  
 New Jersey

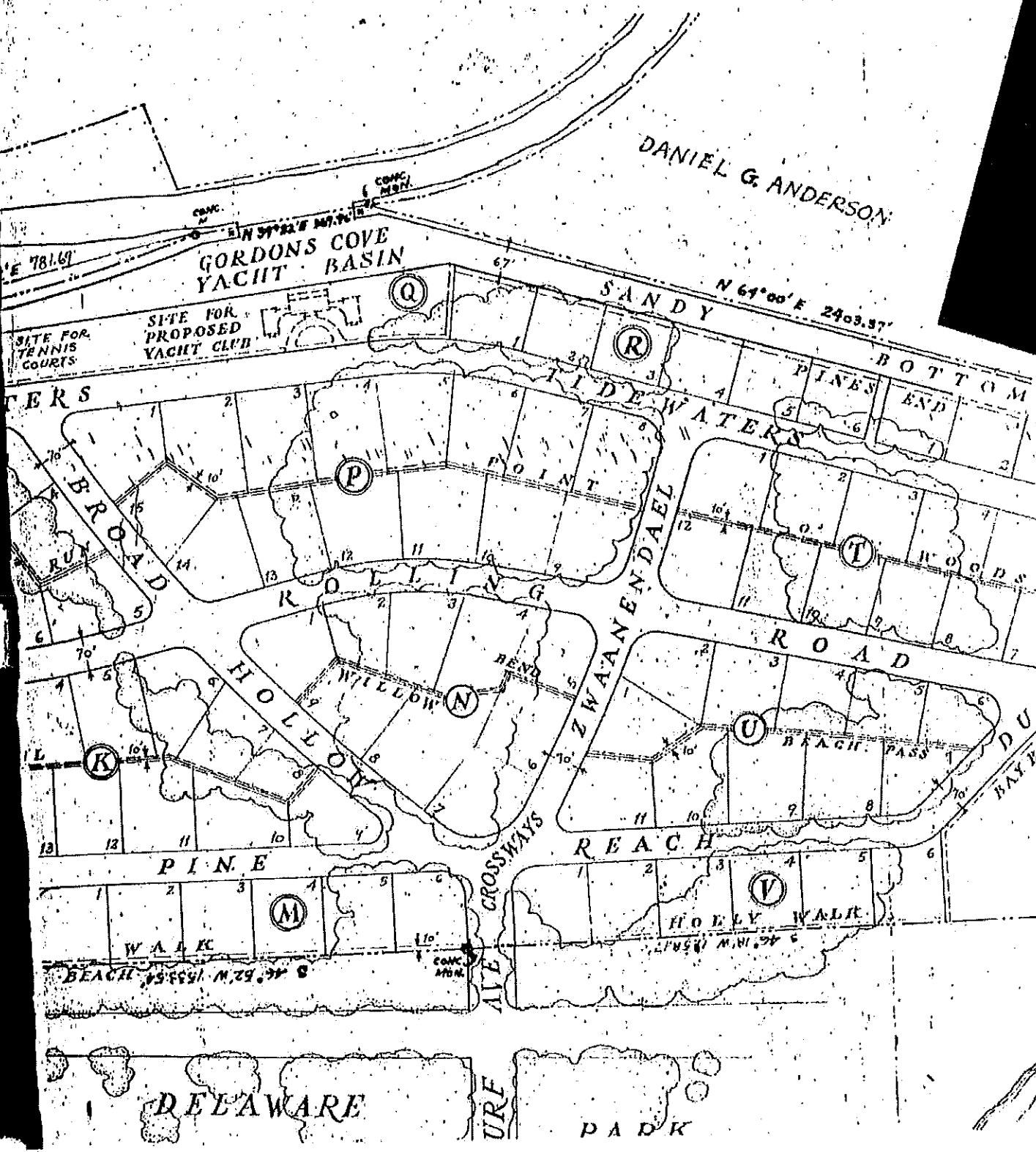


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THIS PLAN BEING THE SAME RETURNED IN DEED OF HENLOPEN ACRES, INC., A CORPORATION OF THE STATE OF DELAWARE TO WILSON S. CORLIAN, DATED 1933, AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, AT DELAWARE, IN DEED RECORD 106, PAGE 208, THIS PLAN AND THE INTENT AND MEANS OF ACCESS, EGRESS AND PASSAGE, AND OF OTHER PURPOSES OF THE RECORDING THEREOF, SHALL NOT BE A DEDICATION OF ANY LANDS OR WAIS OR EGRESS AND PASSAGE FOR ANY PUBLIC USE WHATSOEVER, REFERENCE IS MADE TO THE HEREIN MENTIONED AS TO THE USE AND OTHER PROVISIONS AS TO SAID WAIS OR MEANS OF ACCESS, EGRESS AND PASSAGE AND OTHER LANDS.





# PLAT OF HENLOPEN ACRES

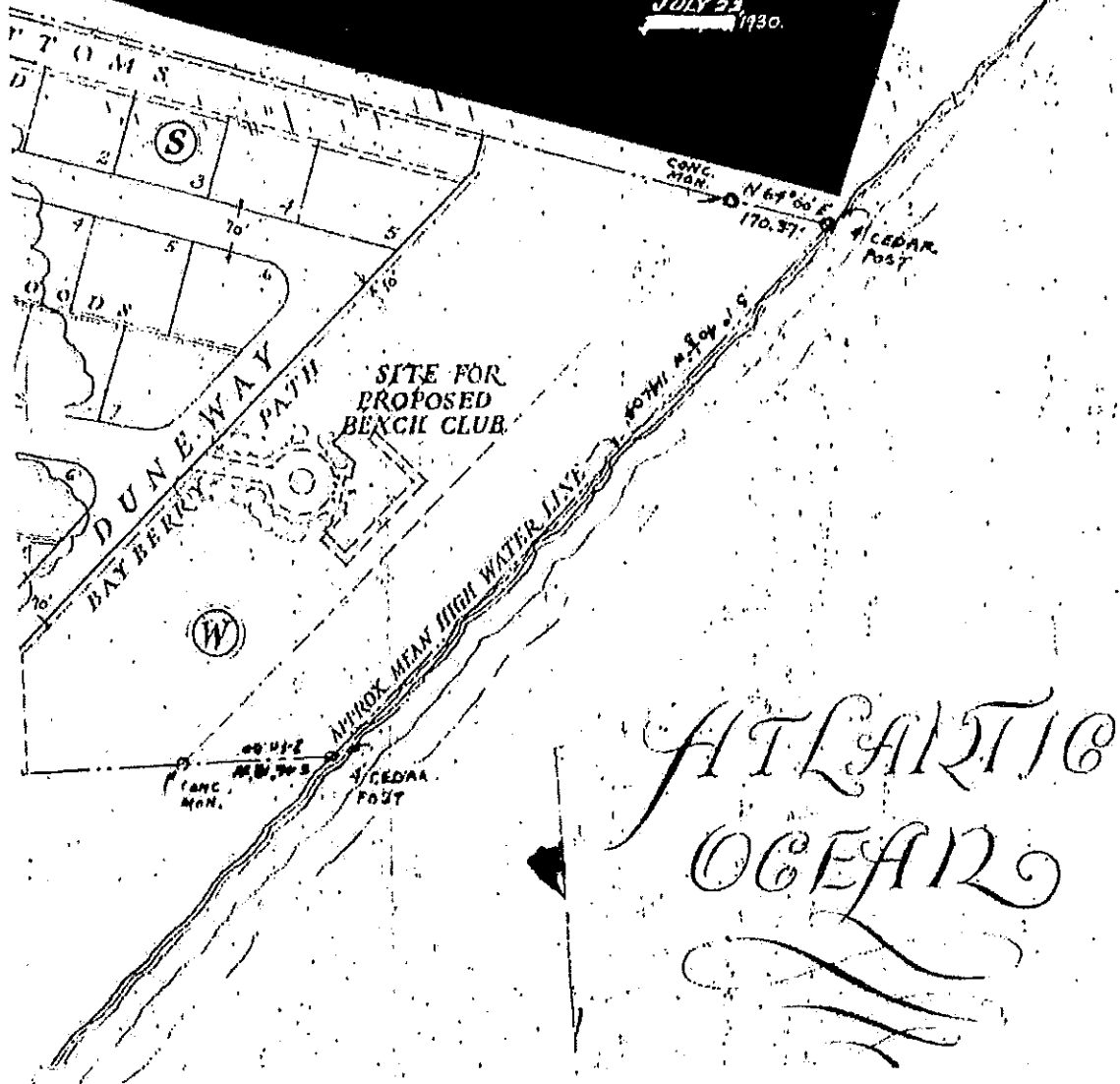
IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY DELAWARE  
ADJOINING REHOBOTH BEACH DELAWARE.

WILBUR S. CORKRAN, OWNER.

SCALE 1" = 200'



JULY 23  
1930.



ATLANTIC  
OCEAN

**Attention: Researchers who wish to perform research on-site may make an appointment by calling (302) 744-5000 or e-mailing [archives@delaware.gov](mailto:archives@delaware.gov) More Info → (<https://archives.delaware.gov/2020/03/19/research-room-notice/>)**

## Archives Menu

(<https://delaware.gov>)



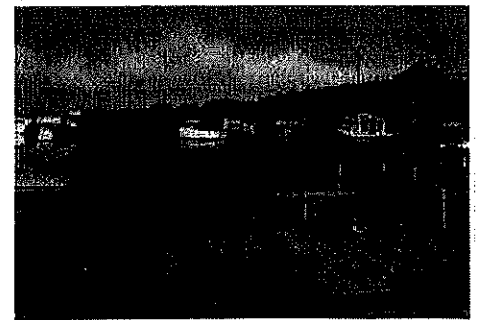
# Henlopen Acres



Select Language | ▼

RG# 7120

W.S. Corkran, an architect and engineer, purchased three tracts of land in Lewes and Rehoboth Hundred and in 1930 deeded the land to a corporation called Henlopen Acres, Inc., whose purpose was to develop a resort residential community and of which he remained a principal. The elliptically-shaped development was bounded by the Lewes and Rehoboth Canal on the northwest and west, the Town of Rehoboth Beach on the south, the Atlantic Ocean on the east and privately held lands on the north. Corkran's vision in planning residential development was to preserve the natural habitat. Although lots were generally 150' X 170,' they often varied in size in order to preserve trees and retain vistas. House designs were subject to review by a governing body. Streets were wide and followed the contour of the land. Landscaped parks, bridle paths, and a yacht club were incorporated into the design. Still subject to certain restrictions and deed covenants, Henlopen Acres is today Delaware's smallest town, being only 0.3 square miles in size with 216 parcels of land.



(<http://cdm16397.contentdm.oclc.org/cdm/comp>  
RG 9015-028-000: Yacht Basin, Henlopen Acres

### 1950 - 1999

Henlopen Acres has been incorporated only once, in 1970, but its Charter has been amended many times. It was originally incorporated as the "Mayor and Commissioners of Henlopen Acres" but was known by the corporate name of "The Town of Henlopen Acres." The territorial limits described in the Charter are the same as those which were deeded to Henlopen Acres, Inc. in 1930. The Commission of Henlopen Acres consists of seven, elected members who hold two-year, staggered terms and who are required to be freeholders of the Town. The Commissioners are to choose members to serve President, who holds the title of Mayor of Henlopen Acres, and Secretary to serve one-year terms. The Mayor, who is required to be a bona fide resident, votes at Commission meetings. The Commissioners are to meet quarterly to carry out Town business. The Commissioners are also to appoint a Town Clerk to serve as the Town's administrator, keeping Town records, and collecting taxes and fees. They are also to appoint a Treasurer, who must be a resident of the Town or employed by a corporation doing business in Lewes and Rehoboth Hundred, to be the custodian of all Town funds. Three Auditors of Accounts, who are freeholders in the Town, are also appointed to one-year terms. Optional Town officials included a Board of Assessment, Town Solicitor, a Police Force, and a Beach Patrol. If no Board of Assessment is appointed, then the Commissioners are to carry out the annual valuation and assessment of all real estate. The Commissioners are to determine the number of funds that would be needed from each source of revenue available to the Town, but no maximum annual amount of taxes was cited in the Charter. The original Charter contained twenty-three enumerated powers that are vested in the Town which include providing health, peace safety, cleanliness, and good order; regulating shows and exhibitions; regulating streets; defining and preventing nuisances; providing pure water; providing a sewer system or sewage treatment and disposal plant; managing bulkheads and jetties; regulating and preserving the planting of ornamental trees; regulating parcels of ground which are deemed dangerous; numbering houses; implementing building codes; regulating the use of guns and fireworks; and implementing actions to prevent fires. The Commissioners can levy taxes and collect fines and charges for services as well as borrow money and issue bonds as long as such borrowing did not exceed 15% of the assessed value of the Town's real estate.<sup>1</sup>

The first amendments to the Charter were made in 1973. The law contained twenty-four individual changes. The more significant of these changes were: the powers in the Charter were now vested in the Town instead of the Commissioners; there were clarifications of who could vote in elections; there were also clarifications to the process for assessing taxes; the fiscal year was changed to begin July 1; the Town could levy tax on telephone, telegraph and power poles; the Town could license businesses including farm produce stands, and the per capita tax on residents was set at \$5. In another law passed later the same year, the Town was given the power to annex contiguous territory.<sup>2</sup> Three years later, in



1976, another law contained thirteen individual changes to the Charter; these would be considered technical corrections.<sup>3</sup> In 1987, the Town was given the power to float short-term debt as long as this did not exceed \$200,000 in any one year.<sup>4</sup> In 1988, changes were made to the Charter to increase the amount of a contract which the Town could enter into without competitive bidding from \$2,000 to \$20,000.<sup>5</sup> Two years later, in 1990, this amount was increased again to \$30,000, and in addition, the Town was authorized to levy tax on real estate transfers if this action was approved by referendum.<sup>6</sup> In 1992, the Charter was amended to allow for the assessment to be updated more often than annually.<sup>7</sup> A year later, a technical correction was made related to the Issuing of bonds.<sup>8</sup> In 1996, a law was passed which clarified the reasons for which the Town could borrow money and issue bonds; the Town Clerk position was changed to be a Town Manager; and the Town was authorized to place a lien on property for which taxes are delinquent and to sell the property if the taxes are not paid.<sup>9</sup> In 1999, a law was passed which contained ten corrections to the Charter. Most of these were technical in nature, such as misspelled words, but there were changes to some of the duties of the Town Manager.<sup>10</sup>

## 2000 - Current

In 2001, a law passed which contained another five technical corrections to the Charter, and another law addressed the issue of who was eligible to vote in elections.<sup>11</sup> A year later, a law passed which again addressed the issue of who could vote in elections.<sup>12</sup> In 2003, the election procedures were changed so as to not require voting to take place if no one is nominated to a Commissioners seat or a seat is uncontested.<sup>13</sup> In 2005, the provisions in the Charter as to who could seek elected office were changed to require that four of the seven Commissioners be bona fide residents of the Town, not just property owners. In addition, elected officials were now to serve three-year terms.<sup>14</sup> A law passed in 2008 contained twelve changes to the Charter many of which were related to the issue of qualifications for elective office. It also addressed who was allowed to vote and clarified that those who held more than one lot were still only eligible to cast one vote. In addition, it was not required that the Treasurer must be a resident of the Town.<sup>15</sup> In 2009, there were nine changes made to the Charter related to the procedures for assessment and appeal of taxes. The Town was also given the authority to accept Sussex County's valuation of assessment rather than conduct their own assessment.<sup>16</sup> In 2014, the Charter was amended to require that the Treasurer be one of the Commissioners; their duties and responsibilities of the position were changed. In another law passed the same year, the provisions related to the qualifications of the Mayor, the Commissioners and Voters were entirely re-written so as to incorporate the many changes to these that had taken place over the years. A "real property owner" was defined and this was applied to this section.<sup>17</sup>

For the fully amended text of the current Charter, see <http://www.charters.delaware.gov/henlopenacres.shtml>  
(<http://www.charters.delaware.gov/henlopenacres.shtml>)

### CITATIONS in *Del. Laws*

<sup>1</sup> 57 *Del. Laws*, c. 504 (1970) [pp. 1377-1418]

<sup>2</sup> 59 *Del. Laws*, c. 18 (1973) [pp. 32-40]

<sup>3</sup> 60 *Del. Laws*, c. 317 (1976) [pp. 955-58]

<sup>4</sup> 66 *Del. Laws*, c. 15 (1987) [p. 25]

<sup>5</sup> 66 *Del. Laws*, c. 259 (1988) [p. 492]

<sup>6</sup> 67 *Del. Laws*, c. 213 (1990) [pp. 437-38]

<sup>7</sup> 68 *Del. Laws*, c. 427 (1992) [pp. 1305-6]

<sup>8</sup> 69 *Del. Laws*, c. 12 (1993) [p. 12]

<sup>9</sup> 70 *Del. Laws*, c. 345, c. 346, and c. 347 (1996) [p. 771, p. 772, and p. 773]

<sup>10</sup> 72 *Del. Laws*, c. 110 (1999) [p. 160]

<sup>11</sup> 73 *Del. Laws*, c. 21 and c. 159 (2001) [p. 60 and p. 408]

<sup>12</sup> 73 *Del. Laws*, c. 361 (2002) [p. 1025]

<sup>13</sup> 74 *Del. Laws*, c. 16 (2003) [p. 13]

<sup>14</sup> 75 *Del. Laws*, c. 165 (2005) p. 235-36]

<sup>15</sup> 76 *Del. Laws*, c. 346 (2008) [pp. 204-5]

<sup>16</sup> 77 *Del. Laws*, c. 41 (2009) [<http://delcode.delaware.gov/sessionlaws/ga145/chp041.shtml>]  
(<http://delcode.delaware.gov/sessionlaws/ga145/chp041.shtml>)]

<sup>17</sup> 79 *Del. Laws*, c. 247 and c. 248 (2014)

[<http://delcode.delaware.gov/sessionlaws/ga147/chp247.shtml>] (<http://delcode.delaware.gov/sessionlaws/ga147/chp247.shtml>)]

[<http://delcode.delaware.gov/sessionlaws/ga147/chp248.shtml>] (<http://delcode.delaware.gov/sessionlaws/ga147/chp248.shtml>)]

*Delaware Laws* from 1935 to present can be found online at <http://delcode.delaware.gov/sessionlaws/>  
(<http://delcode.delaware.gov/sessionlaws/>)

## RECORDS at DPA

## Town of Henlopen Acres' records at the Delaware Public Archives include:

- Minutes of the Board of Commissioners (1970-2009): 7020-000-001
- Annual Audited Financial Statements (1970-2013): 7020-000-002
- Maps and Plots (1929-1986): 7020-000-003

jnl / August 2, 2018 | April 23, 2019

**Related Topics:** Delaware History (<https://archives.delaware.gov/tag/delaware-history/>), Henlopen (<https://archives.delaware.gov/tag/henlopen/>), Henlopen Acres (<https://archives.delaware.gov/tag/henlopen-acres/>), Town and City Histories (<https://archives.delaware.gov/tag/town-and-city-histories/>)

## Delaware's Government

Delaware's Governor (<https://governor.delaware.gov>)  
State Agencies ([https://delaware.gov/topics/agencylist\\_alpha](https://delaware.gov/topics/agencylist_alpha))  
Elected Officials (<https://delaware.gov/topics/yourgovernment>)  
General Assembly (<https://legis.delaware.gov/>)  
Delaware Courts (<https://courts.delaware.gov/>)  
State Employees (<https://dhr.delaware.gov/personnel/employee-resources.shtml>)  
Cities & Towns (<https://delaware.gov/topics/municipalities>)  
Delaware State Code (<http://delcode.delaware.gov/>)  
State Regulations (<http://regulations.delaware.gov/>)  
Business First Steps (<https://firststeps.delaware.gov/>)  
Phone Directory (<https://phonedirectory.delaware.gov>)  
Locations Directory (<https://delaware.gov/locationsdirectory/>)  
Public Meetings (<https://publicmeetings.delaware.gov/>)  
Voting & Elections (<https://elections.delaware.gov>)  
Transparency (<https://delaware.gov/topics/transparency>)  
Delaware Marketplace (<https://www.choosehealthde.com/Health-Insurance>)  
Tax Center (<https://delaware.gov/topics/TaxCenter>)  
Personal Income Tax ([https://revenue.delaware.gov/pit\\_onlinefilling.shtml](https://revenue.delaware.gov/pit_onlinefilling.shtml))  
Privacy Policy (<https://delaware.gov/help/privacy>)  
Weather & Travel (<https://delaware.gov/topics/weatherpage>)  
Contact Us (<https://delaware.gov/help/degov-contact.shtml>)  
Corporations (<https://corp.delaware.gov/>)  
Franchise Tax (<https://corp.delaware.gov/paytaxes.shtml>)  
Gross Receipts Tax (<https://grossreceiptstax.delaware.gov/grtpublic/>)  
Withholding Tax (<https://dorweb.revenue.delaware.gov/EDIOOnline/EDIOOnline.dll>)  
Delaware Topics (<https://delaware.gov/topics/>)  
Help Center (<https://delaware.gov/help/>)  
Mobile Apps (<https://delaware.gov/topics/apps>)  
E-mail / Text Alerts (<https://delaware.gov/topics/subscribeemail>)  
Social Media (<https://delaware.gov/topics/socialmedia>)



(<https://www.facebook.com/delaware.gov>)



([https://twitter.com/delaware\\_gov/](https://twitter.com/delaware_gov/))



([https://www.flickr.com/groups/delaware\\_gov/](https://www.flickr.com/groups/delaware_gov/))



(<https://www.youtube.com/user/DelawareGovernment>)



([https://www.instagram.com/delaware\\_gov/](https://www.instagram.com/delaware_gov/))



BAIRD  
MANDALAS  
BROCKSTEDT LLC

# EXHIBIT D



Sussex County Council  
County Administrative Offices  
2 The Circle  
Georgetown, Delaware 19947

To Whom It May Concern:

My name is David Green, and I am the founder, owner and operator of the Cape Water Tours and Taxi. Our primary boating services are offered on the Lewes & Rehoboth Canal. We have provided our unique service successfully for over ten years and look forward to many more.

I am aware of the efforts of the home-owners association in Canal Pointe to build a 30' X 30' kayak/canoe launching dock on the canal in a buffer tree area that has been converted in what they call Canal Pointe Park. I have great concerns about this proposal for the following reasons:

1. Safety

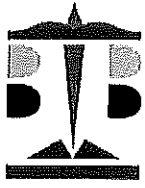
First and foremost, I believe this proposal raises great concerns for safety. The area of the Canal where the dock will be located is very narrow, with an existing passable width of only 75 feet. With the addition of this proposed dock that extends 30' into the Canal, the passable area will only be 45 feet. This is further reduced by shoaling & silting in of the canal. I believe at the very least, someone should conduct a subaqueous survey of that stretch of the canal to determine if this will become a hazard to navigation in the future.

2. Dock Design

Rather than extend 30' into the Canal, it would be far better for any dock to "hug the shoreline." Possibly the addition of an "Kayak slide ramp" might help matters even further?

Sincerely,

Captain David Green



BAIRD  
MANDALAS  
BROCKSTEDT LLC

# EXHIBIT E

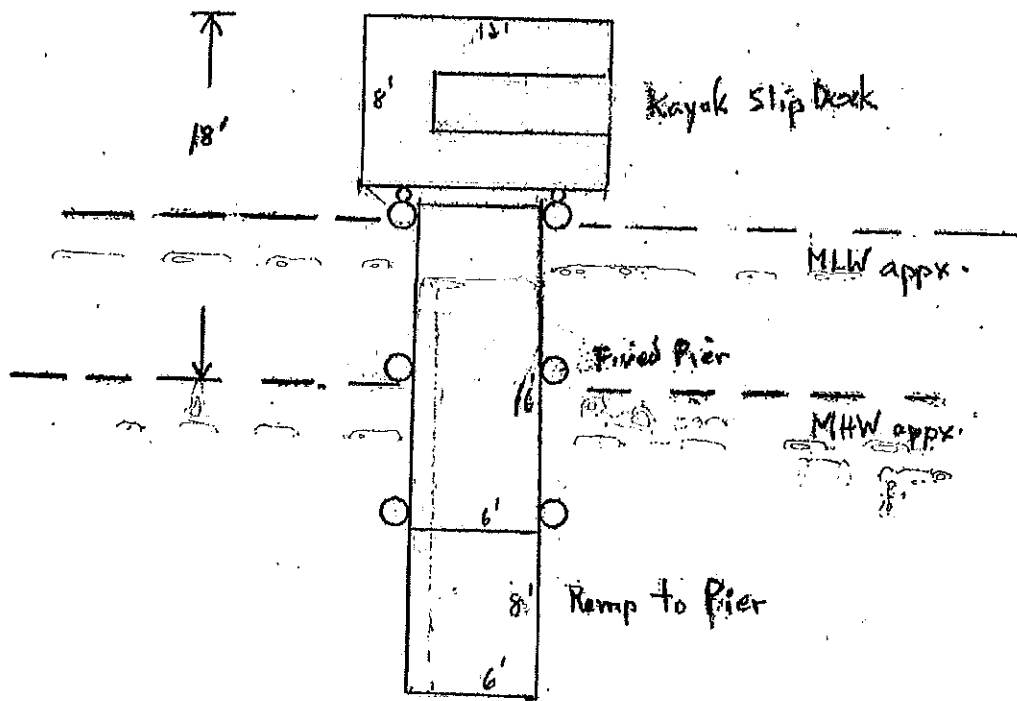




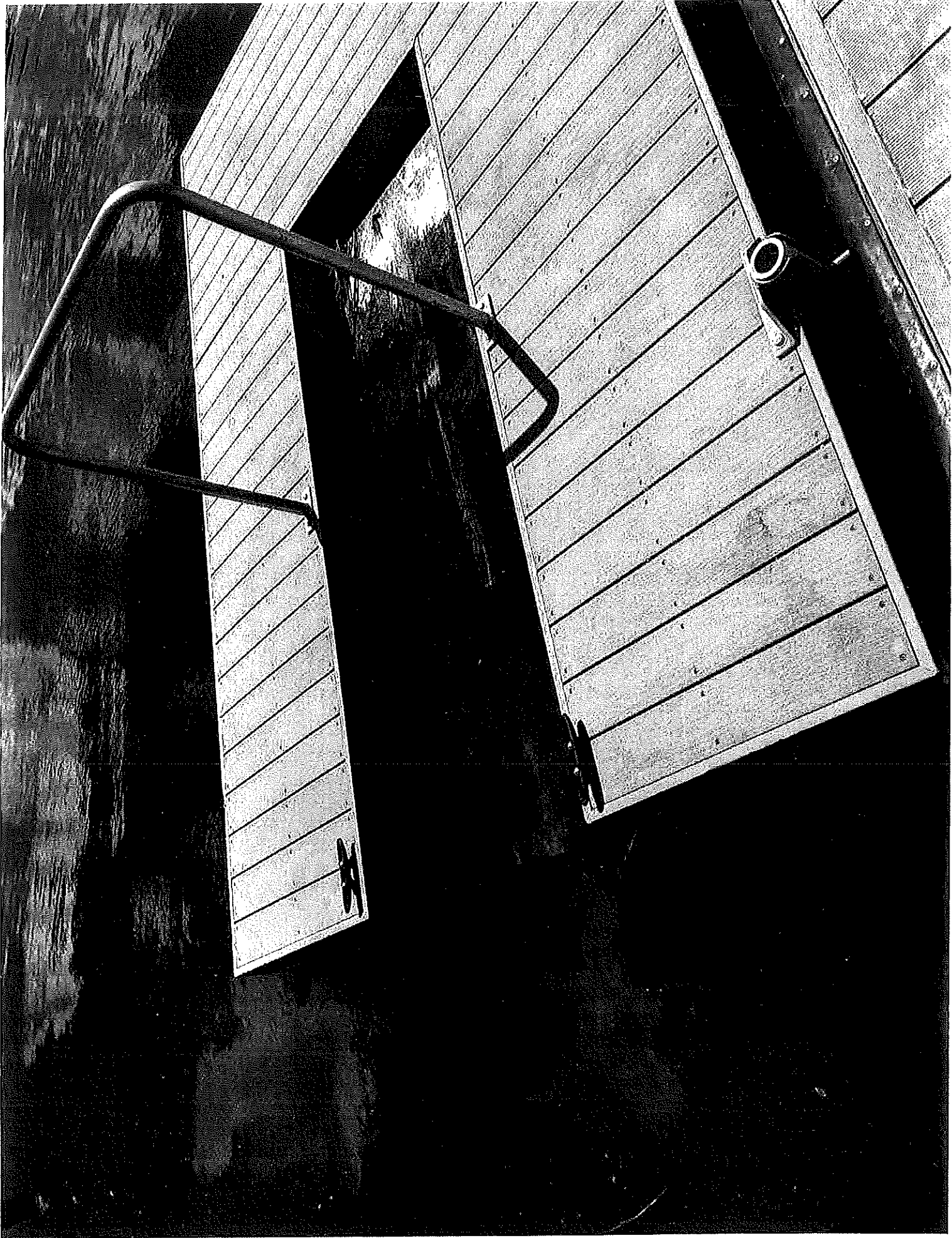
BAIRD  
MANDALAS  
BROCKSTEDT LLP

# EXHIBIT F

Proposed Kayak Dock









BAIRD  
MANDALAS  
BROCKSTEDT LLP

# EXHIBIT G

28972

BK: 4441 PG: 176

**Canal Point Subdivision**

Tax Parcel Nos:

3-34-13.00-1745.00

3-34-13.00-1746.00

Prepared by:

Canal Point, LLC

105 Foulk Road

Wilmington, DE 19803

Return to:

The Grande at Canal Pointe

Maintenance Corporation

c/o Guardian Property Management

17577 Nassau Commons Blvd, Ste 103

Lewes, DE 19958

**DEED**

**THIS DEED**, made effective as of this 15<sup>th</sup> day of September in the year Two Thousand Fifteen (2015),

**BETWEEN, CANAL POINT, LLC**, a Delaware limited liability company, party of the first part,

**AND**

**THE GRANDE AT CANAL POINTE MAINTENANCE CORPORATION**, a Delaware corporation, party of the second part.

**WITNESSETH**, that the said party of the first part, for and in consideration of the sum of TEN AND 00/100 DOLLARS (\$10.00), lawful money of the United States of America, the receipt whereof is hereby acknowledged, hereby grants and conveys unto the said party of the second part,

**BEING** all those pieces or parcels of land, hereinafter described, situate, lying and located in Lewes and Rehoboth Hundred of Sussex County, Delaware; said pieces or parcels of land being all of: Open Space Area 1, Parcel F; Open Space Area 2, Parcel G; Open Space Area 3, Parcel H; Open Space Area 4, Parcel I; Stormwater Area 1, Parcel J; Stormwater Area 2, Parcel K; Stormwater Area 3, Parcel L; all as shown on the Plot of "Canal Point, Residential

PS

KS

Planned Community," being of record in the Office of the Recorder of Deeds, in and for Sussex County, at Georgetown, Delaware, in Plot Book 153, Page 16 (the "Plan"); said pieces or parcels of land being more particularly described on Exhibit A attached hereto and made a part hereof.

**SUBJECT TO** the covenants, easements, conditions, and restrictions specified on the Plan.

**SUBJECT** to all easements, restrictions, reservations, encumbrances, conditions, covenants and agreements of record, this reference to which shall not be construed to re-impose the same as the case may be.

**BEING** a part of the same lands and premises conveyed by Deed of David O. Futchter and Ellen Lee Futchter, his wife, Lemuel W. Futchter, John A. Futchter, Jr., Lemuel W. Futchter as the surviving Co-Trustee under Revocable Trust Agreement of John A. Futchter, Sr. dated February 21, 1980 and Lemuel W. Futchter, Trustee under Irrevocable Trust Agreement of Emma L. Futchter dated December 7, 1993 to Canal Point, LLC, a Delaware limited liability company, dated August 27, 2004 and recorded on August 27, 2004 in the Office of the Recorder of Deeds for Sussex County, Delaware in Deed Book 3027, Page 77, in fee.

**Grantee address:**  
c/o Guardian Property Management  
17577 Nassau Commons Blvd, Ste 103  
Lewes, DE 19958

[SIGNATURE PAGE FOLLOWS]



EXHIBIT A

(Deed from Canal Point, LLC to The Grande at Canal Pointe Maintenance Corporation)

Open Space Area 1, Parcel F

BEGINNING at a point formed by the intersection of the northwesterly right-of-way line of Gloucester Drive, 50 feet wide, with the northeasterly line of Lot 63, thence,

- 1) leaving said Gloucester Drive and running by and with said Lot 63 the following two courses and distances, North 44 degrees 02 minutes 21 seconds West 100.00 feet to a point, thence running,
- 2) South 33 degrees 24 minutes 05 seconds West 112.83 feet to a point on the westerly line of Lot 64, thence,
- 3) leaving said Lot 63 and running by and with said Lot 64, South 10 degrees 09 minutes 34 seconds West 108.63 feet to a point on the westerly line of Lot 65, thence,
- 4) leaving said Lot 64 and running by and with said Lot 65, South 08 degrees 43 minutes 44 seconds East 94.20 feet to a point on the northerly line of Lot 68, thence,
- 5) leaving said Lot 65 and running by and with said Lot 68, North 72 degrees 37 minutes 29 seconds West 109.27 feet to a point, thence,
- 6) leaving said Lot 68 and running by and with said Lot 69, North 81 degrees 49 minutes 23 seconds West 86.90 feet to a point on the northerly line of Lot 70, thence,
- 7) continuing by and with said Lot 69 and running by and with said Lot 70 the following three courses, South 81 degrees 00 minutes 09 seconds West 43.97 feet to a point, thence,
- 8) continuing by and with said Lot 70, North 79 degrees 45 minutes 31 seconds West 29.60 feet to a point, thence,
- 9) still continuing by and with said Lot 70 and also running by and with Lot 71, North 87 degrees 11 minutes 41 seconds West 47.93 feet to a point, thence,
- 10) continuing by and with said Lot 71 and also running by and with Lot 72, South 71 degrees 47 minutes 29 seconds West 144.21 feet to a point, thence,
- 11) continuing by and with said Lot 72 and also running by and with Lot 73, South 03 degrees 23 minutes 44 seconds West 128.33 feet to a point on the northerly line of Stormwater Area 3, Parcel L, thence,
- 12) leaving said Lot 72 and running by and with said Stormwater Area 3, Parcel L, North 86 degrees 31 minutes 15 seconds West 18.04 feet to a point on the easterly line of Henlopen Keys Subdivision as recorded in the Office of the Recorder of Deeds, in and for Sussex County, at Georgetown, Delaware, in Plot Book 20, Page 110 and Plot Book 12, Page 32, thence,
- 13) running by and with said Henlopen Keys Subdivision the following two courses and distances, North 03 degrees 28 minutes 45 seconds East 164.02 feet to a point, thence,
- 14) North 73 degrees 37 minutes 45 seconds East 134.73 feet to a point, thence,
- 15) continuing by and with said Henlopen Keys Subdivision and also running by and with the lands of, now or formerly, Patricia R. Fraser, Vivian A. F. Fisher and William N. Fraser as recorded in the aforesaid Office of the Recorder of Deeds in Deed Book 2529, Page 148, North 47 degrees 03 minutes 50 seconds East 557.14 feet to a point, thence,
- 16) continuing by and with said lands of Fraser, North 39 degrees 47 minutes 41 seconds East 1340.10 feet to a point on the southerly line of the lands of, now or formerly, The State of

Delaware as recorded in the aforesaid Office of the Recorder of Deeds in Deed Book 2436, Page 300, thence,

17) leaving said lands of Fraser and running by and with said lands of The State of Delaware and also running by and with other lands of now or formerly, The State of Delaware as recorded in the aforesaid Office of the Recorder of Deeds in Deed Book 1947, Page 263, South 78 degrees 15 minutes 37 seconds East 2100.00 feet to a point on the westerly line of the Lewes and Rehoboth Canal, thence,

18) leaving said other lands of The State of Delaware and running by and with said Lewes and Rehoboth Canal, South 32 degrees 59 minutes 06 seconds West 744.13 feet to a point on the northwesterly line of Canal Corkran as recorded in the aforesaid Office of the Recorder of Deeds in Plot Book 69, Page 336, thence,

19) leaving said Lewes and Rehoboth Canal and running by and with said Canal Corkran the following two courses and distances, South 38 degrees 29 minutes 47 seconds West 1902.36 feet to a point, thence,

20) South 89 degrees 48 minutes 54 seconds West 641.39 feet to a point on the easterly line of Condominium Parcel C, thence,

21) leaving said Canal Corkran and running by and with said Condominium Parcel C the following four courses and distances, North 30 degrees 58 minutes 39 seconds East 141.15 feet to a point, thence running,

22) North 40 degrees 49 minutes 35 seconds West 60.69 feet to a point, thence running,

23) North 06 degrees 40 minutes 27 seconds West 52.09 feet to a point, thence running,

24) North 38 degrees 12 minutes 02 seconds East 18.26 feet to a point on the westerly line of Lot 1, thence,

25) leaving said Condominium Parcel C and running by and with said Lot 1 the following two courses and distances, South 09 degrees 49 minutes 41 seconds East 48.96 feet to a point, thence running,

26) South 40 degrees 53 minutes 53 seconds East 45.33 feet to a point on the southerly line of Lot 2, thence,

27) leaving said Lot 1 and running by and with said Lot 2, South 68 degrees 59 minutes 32 seconds East 48.90 feet to a point, thence,

28) continuing by and with said Lot 2 and also running by and with Lots 3, 4 and 5, North 84 degrees 08 minutes 26 seconds East 291.81 feet to a point on the southerly line of Lot 5, thence running,

29) continuing by and with said Lot 5, North 36 degrees 55 minutes 21 seconds East 35.70 feet to a point, thence,

30) continuing by and with said Lot 5 and also running by and with Lot 6, South 85 degrees 43 minutes 17 seconds East 53.32 feet to a point, thence,

31) continuing by and with said Lot 6, South 64 degrees 50 minutes 46 seconds East 25.40 feet to a point, thence,

32) continuing by and with said Lot 6 and also running by and with Lots 7 and 8, North 84 degrees 08 minutes 26 seconds East 153.24 feet to a point, thence,

33) continuing by and with said Lot 8 and also running by and with Lot 9, North 63 degrees 36 minutes 32 seconds East 105.46 feet to a point, thence,

34) continuing by and with said Lot 9 and also running by and with Lot 10, North 40 degrees 22 minutes 48 seconds East 113.79 feet to a point, thence,

- 35) continuing by and with said Lot 10 and also running by and with Lot 11, North 17 degrees 09 minutes 06 seconds East 111.65 feet to a point, thence,
- 36) continuing by and with said Lot 11, North 11 degrees 49 minutes 34 seconds East 49.99 feet to a point on the easterly line of Lot 12, thence,
- 37) leaving said Lot 11 and running by and with said Lot 12 and also running by and with Lots 13, 14 and 15, North 09 degrees 35 minutes 07 seconds West 308.58 feet to a point, thence,
- 38) continuing by and with said Lot 15, South 80 degrees 24 minutes 53 seconds West 113.75 feet to a point on the easterly right-of-way line of Worcester Drive, 50 feet wide, thence,
- 39) leaving said Lot 15 and running by and with said Worcester Drive, North 09 degrees 35 minutes 07 seconds West 30.00 feet to a point on the southerly line of Lot 16, thence,
- 40) leaving said Worcester Drive and running by and with said Lot 16, North 80 degrees 24 minutes 53 seconds East 113.75 feet to a point, thence,
- 41) continuing by and with said Lot 16 and also running by and with Lot 17, North 09 degrees 35 minutes 07 seconds West 110.41 feet to a point, thence,
- 42) continuing by and with said Lot 17 and also running by and with Lot 18, North 00 degrees 04 minutes 51 seconds West 50.70 feet to a point, thence,
- 43) continuing by and with said Lot 18 and also running by and with Lot 19, North 64 degrees 00 minutes 44 seconds East 102.49 feet to a point, thence,
- 44) continuing by and with said Lot 19 and also running by and with Lots 21 and 22, South 82 degrees 39 minutes 06 seconds East 124.68 feet to a point, thence,
- 45) continuing by and with said Lot 22 and also running by and with Lot 23, North 80 degrees 53 minutes 54 seconds East 166.29 feet to a point on the southeasterly line of Lot 24, thence,
- 46) leaving said Lot 23 and running by and with said Lot 24, North 43 degrees 03 minutes 59 seconds East 112.38 feet to a point on the southeasterly line of Lot 25, thence,
- 47) leaving said Lot 24 and running by and with said Lot 25 and also running by and with Lots 26, 27 and 28, North 37 degrees 44 minutes 52 seconds East 321.74 feet to a point on the easterly line of Lot 29, thence,
- 48) leaving said Lot 28 and running by and with said Lot 29, North 14 degrees 26 minutes 13 seconds East 111.61 feet to a point on the easterly line of Lot 30, thence,
- 49) leaving said Lot 29 and running by and with said Lot 30, North 06 degrees 55 minutes 37 seconds West 112.02 feet to a point on the easterly line of Lot 31, thence,
- 50) leaving said Lot 30 and running by and with said Lot 31, the following two courses and distances, North 18 degrees 40 minutes 44 seconds West 75.00 feet to a point, thence running,
- 51) continuing by and with said Lot 31, South 71 degrees 19 minutes 16 seconds West 100.00 feet to a point on the easterly right-of-way line of Gloucester Drive, 50 feet wide, thence,
- 52) leaving said Lot 31 and running by and with said Gloucester Drive, North 18 degrees 40 minutes 44 seconds West 12.16 feet to a point on the southerly line of the lands of, now or formerly, Sussex County, Delaware as recorded in the aforesaid Office of the Recorder of Deeds in Deed Book 3511, Page 343, thence,
- 53) leaving said Gloucester Drive and running by and with said lands of Sussex County, Delaware the following three courses and distances, North 71 degrees 19 minutes 16 seconds East 50.00 feet to a point, thence running,
- 54) North 18 degrees 40 minutes 44 seconds West 50.00 feet to a point, thence running,
- 55) South 71 degrees 19 minutes 16 seconds West 50.00 feet to a point on aforementioned easterly right-of-way line of Gloucester Drive, thence,



- 56) leaving said lands of Sussex County, Delaware and running by and with said Gloucester Drive, North 18 degrees 40 minutes 44 seconds West 125.03 feet to a point on the southerly line of Lot 32, thence,
- 57) leaving said Gloucester Drive and running by and with said Lot 32, North 71 degrees 19 minutes 16 seconds East 120.00 feet to a point, thence,
- 58) continuing by and with said Lot 32 and also running by and with Lots 33 and 34, North 27 degrees 09 minutes 47 seconds West 214.70 feet to a point, thence,
- 59) continuing by and with said Lot 34 and also running by and with Lot 35, North 54 degrees 38 minutes 38 seconds West 143.26 feet to a point on the northeasterly line of Lot 36, thence,
- 60) leaving said Lot 35 and running by and with said Lot 36, North 59 degrees 16 minutes 03 seconds West 39.29 feet to a point, thence,
- 61) continuing by and with said Lot 36 and also running by and with Lots 37 and 38, North 61 degrees 46 minutes 11 seconds West 181.56 feet to a point on the easterly line of Lot 39, thence,
- 62) leaving said Lot 38 and running by and with said Lot 39, North 10 degrees 41 minutes 19 seconds West 67.29 feet to a point on the northeasterly line of Lot 40, thence,
- 63) leaving said Lot 39 and running by and with said Lot 40 and also running by and with Lot 41, North 51 degrees 47 minutes 37 seconds West 139.54 feet to a point, thence,
- 64) continuing by and with said Lot 41 and also running by and with Lots 42, 43 and 44, North 77 degrees 56 minutes 36 seconds West 271.47 feet to a point, thence,
- 65) continuing by and with said Lot 44, the following two courses and distances, South 51 degrees 57 minutes 55 seconds West 26.84 feet to a point, thence running,
- 66) South 81 degrees 20 minutes 43 seconds West 48.52 feet to a point on the northerly line of Lot 45, thence running,
- 67) leaving said Lot 44 and running by and with said Lot 45 the following three courses and distances, South 80 degrees 09 minutes 33 seconds West 60.89 feet to a point, thence running,
- 68) South 46 degrees 05 minutes 54 seconds West 33.84 feet to a point, thence running,
- 69) South 22 degrees 06 minutes 33 seconds East 100.03 feet to a point on the northerly right-of-way line of the aforesaid Gloucester Drive, thence,
- 70) leaving said Lot 45 and running by and with said Gloucester Drive, the following two courses and distances, by and with a curve deflecting to the left with an arc length of 49.22 feet, a radius of 355.00 feet and a chord bearing and distance of South 63 degrees 55 minutes 09 seconds West 49.18 feet to a point of tangency, thence running,
- 71) South 59 degrees 56 minutes 51 seconds West 78.08 feet to a point on the easterly line of Lot 46, thence,
- 72) leaving said Gloucester Drive and running by and with said Lot 46, North 30 degrees 03 minutes 09 seconds West 100.00 feet to a point, thence,
- 73) continuing by and with said Lot 46 and also running by and with Lot 47, South 59 degrees 56 minutes 51 seconds West 150.00 feet to a point on the northerly line of Lot 48, thence,
- 74) leaving said Lot 47 and running by and with said Lot 48, South 58 degrees 27 minutes 51 seconds West 86.42 feet to a point on the northwesterly line of Lot 49, thence,
- 75) leaving said Lot 48 and running by and with said Lot 49, South 41 degrees 21 minutes 47 seconds West 107.50 feet to a point on the northwesterly line of Lot 50, thence,
- 76) leaving said Lot 49 and running by and with said Lot 50, South 30 degrees 05 minutes 30 seconds West 77.22 feet to a point on the northwesterly line of Lot 51, thence,

- 77) leaving said Lot 50 and running by and with said Lot 51, South 30 degrees 11 minutes 20 seconds West 70.12 feet to a point on the northerly line of Lot 52, thence,
- 78) leaving said Lot 51 and running by and with said Lot 52 the following two courses and distances, South 65 degrees 35 minutes 23 seconds West 45.08 feet to a point, thence running,
- 79) South 12 degrees 35 minutes 14 seconds East 54.31 feet to a point on the northwesterly line of Lot 53, thence,
- 80) leaving said Lot 52 and running by and with said Lot 53, the following two courses and distances, South 56 degrees 55 minutes 29 seconds West 6.23 feet to a point, thence,
- 81) North 52 degrees 50 minutes 34 seconds West 59.63 feet to a point, thence,
- 82) continuing by and with said Lot 53 and also running by and with Lots 54 and 55, South 56 degrees 55 minutes 30 seconds West 198.60 feet to a point on the westerly line of Lot 56, thence,
- 83) leaving said Lot 55 and running by and with said Lot 56, the following three courses and distances, South 27 degrees 02 minutes 23 seconds West 27.95 feet to a point, thence running,
- 84) South 40 degrees 53 minutes 04 seconds West 23.96 feet to a point, thence running,
- 85) North 85 degrees 33 minutes 11 seconds West 34.98 feet to a point on the northerly line of Lot 57, thence,
- 86) leaving said Lot 56 and running by and with said Lot 57, the following three courses and distances, South 78 degrees 55 minutes 04 seconds West 19.26 feet to a point, thence running,
- 87) South 43 degrees 54 minutes 06 seconds West 36.93 feet to a point, thence running,
- 88) South 03 degrees 42 minutes 27 seconds West 28.46 feet to a point, thence,
- 89) continuing by and with said Lot 57 and also running by and with Lot 58, North 80 degrees 44 minutes 57 seconds West 41.18 feet to a point, thence,
- 90) continuing by and with said Lot 58, South 50 degrees 42 minutes 37 seconds West 20.60 feet to a point, thence running,
- 91) continuing by and with said Lot 58, South 32 degrees 41 minutes 02 seconds West 41.04 feet to a point on the northerly line of Lot 59, thence,
- 92) leaving said Lot 58 and running by and with said Lot 59 the following four courses and distances, continuing South 32 degrees 41 minutes 02 seconds West 6.11 feet to a point, thence running,
- 93) South 76 degrees 19 minutes 49 seconds West 44.48 feet to a point, thence running,
- 94) South 24 degrees 42 minutes 06 seconds West 41.90 feet to a point, thence running,
- 95) South 42 degrees 21 minutes 49 seconds West 36.70 feet to a point on the northerly line of Lot 60, thence,
- 96) leaving said Lot 59 and running by and with said Lot 60, the following two courses and distances, South 47 degrees 51 minutes 16 seconds West 46.49 feet to a point, thence running,
- 97) South 33 degrees 15 minutes 08 seconds West 31.74 feet to a point on the northerly line of Lot 61, thence,
- 98) leaving said Lot 60 and running by and with said Lot 61, continuing South 33 degrees 15 minutes 08 seconds West 30.77 feet to a point, thence,
- 99) continuing by and with Lot 61 and also running by and with Lot 62, South 31 degrees 24 minutes 26 seconds West 57.82 feet to a point, thence,
- 100) continuing by and with Lot 62, the following four courses and distances, South 13 degrees 47 minutes 36 seconds West 21.89 feet to a point, thence running,
- 101) South 28 degrees 07 minutes 28 seconds East 48.11 feet to a point, thence running,
- 102) South 47 degrees 53 minutes 24 seconds East 61.33 feet to a point, thence running,

- 103) South 62 degrees 58 minutes 43 seconds East 42.99 feet to a point on the aforementioned northerly right-of-way line of Gloucester Drive, thence,  
104) leaving said Lot 62 and running by and with said Gloucester Drive, the following two courses and distances, by and with a curve deflecting to the right with an arc length of 63.32 feet, a radius of 125.00 feet and a chord bearing and distance of South 44 degrees 07 minutes 25 seconds West 62.65 feet to a point of reverse curvature, thence running,  
105) by and with a curve deflecting to the left with an arc length of 42.20 feet, a radius of 175.00 feet and a chord bearing and distance of South 51 degrees 43 minutes 39 seconds West 42.10 feet to the point and place of beginning;

CONTAINING 32.6141 acres of land, more or less.

**Open Space Area 2, Parcel G**

BEGINNING at a point formed by the intersection of the southwesterly right-of-way line of Hebron Road, 70 feet wide, with the northwesterly line of Senior Center Area, Parcel D of "Canal Point, Residential Planned Community," being of record in the Office of the Recorder of Deeds, in and for Sussex County, at Georgetown, Delaware, in Plot Book 153, Page 16, thence,

- 1) leaving said Hebron Road and running by and with said Parcel D, South 57 degrees 56 minutes 48 seconds West 243.22 feet to a point on the northeasterly line of "Sandalwood Subdivision", being of record in the aforementioned Office of the Recorder of Deeds in Plot Book 32, Page 327, thence,
- 2) leaving said Parcel D and running by and with said "Sandalwood Subdivision", North 32 degrees 00 minutes 46 seconds West 266.19 feet to a point on the southeasterly line of Residual Lands Area 1, Parcel M of "Canal Point, Residential Planned Community," being of record in the aforementioned Office of the Recorder of Deeds in Plot Book 153, Page 16, thence,
- 3) leaving said "Sandalwood Subdivision" and running by and with said Parcel M, North 38 degrees 14 minutes 37 seconds East 270.59 feet to a point, thence,
- 4) continuing with said Parcel M and also running by and with the lands of, now or formerly, David O. Futchter and Ellen Lee Futchter, being of record in the aforementioned Office of the Recorder of Deeds in Deed Book 1887, Page 75, North 32 degrees 00 minutes 46 seconds West 305.30 feet to a point on the aforementioned right-of-way line of Hebron Road, thence,
- 5) leaving said lands of Futchter and running by and with said right-of-way line of Hebron Road, the following seven courses and distances, North 83 degrees 25 minutes 18 seconds East 23.73 feet to a point, thence running,
- 6) South 51 degrees 34 minutes 42 seconds East 53.22 feet to a point of curvature, thence running,
- 7) by and with a curve deflecting to the right with an arc length of 245.95 feet, a radius of 370.00 feet and a chord bearing and distance of South 32 degrees 32 minutes 07 seconds East 241.45 feet to a point of reverse curvature, thence running,
- 8) by and with a curve deflecting to the left with an arc length of 268.88 feet, a radius of 830.00 feet and a chord bearing and distance of South 22 degrees 46 minutes 21 seconds East 267.71 feet to a point of tangency, thence running,

- 9) South 32 degrees 03 minutes 12 seconds East 81.87 feet to a point, thence running,
- 10) South 57 degrees 56 minutes 48 seconds West 10.00 feet to a point, thence running,
- 11) South 32 degrees 03 minutes 12 seconds East 14.83 feet to the point and place of beginning;

CONTAINING 2.2291 acres of land, more or less.

**Open Space Area 3, Parcel H**

BEGINNING at a point formed by the intersection of the southwesterly right-of-way line of Hebron Road, 70 feet wide, with the northwesterly line of "West Rehoboth Subdivision", being of record in the Office of the Recorder of Deeds, in and for Sussex County, at Georgetown, Delaware, in Plot Book 2, Page 3 and Plot Book 8, Page 483, thence,

- 1) leaving said Hebron Road and running by and with said "West Rehoboth Subdivision", South 30 degrees 54 minutes 55 seconds West 285.58 feet to a point on the northeasterly line of "Sandalwood Subdivision", being of record in the aforementioned Office of the Recorder of Deeds in Plot Book 32, Page 327, thence,
- 2) leaving said "West Rehoboth Subdivision" and running by and with said "Sandalwood Subdivision", North 32 degrees 00 minutes 46 seconds West 321.90 feet to a point on the southerly line of Parcel K of "Canal Point, Residential Planned Community," being of record in the aforementioned Office of the Recorder of Deeds in Plot Book 153, Page 16, thence,
- 3) leaving said "Sandalwood Subdivision" and running by and with said Parcel K, North 57 degrees 56 minutes 48 seconds East 254.15 feet to a point on the aforementioned southwesterly right-of-way line of Hebron Road, thence,
- 4) leaving said Parcel K and running by and with said right-of-way line of Hebron Road, South 32 degrees 03 minutes 12 seconds East 192.11 feet to the point and place of beginning;

CONTAINING 1.5000 acres of land, more or less.

**Open Space Area 4, Parcel I**

BEGINNING at a point formed by the intersection of the northeasterly right-of-way line of Mersey Drive, 50 feet wide, with the southeasterly line of Lot 275 of "Canal Point, Residential Planned Community," being of record in the Office of the Recorder of Deeds, in and for Sussex County, at Georgetown, Delaware, in Plot Book 153, Page 16, thence,

- 1) leaving said Mersey Drive and running by and with said Lot 275 the following two courses and distances, North 51 degrees 21 minutes 13 seconds East 94.90 feet to a point, thence running,
- 2) North 27 degrees 37 minutes 25 seconds West 86.10 feet to a point on the southerly line of Lot 77 of said "Canal Point, Residential Planned Community", thence,
- 3) leaving said Lot 275 and running by and with said Lot 77, North 62 degrees 22 minutes 35 seconds East 107.13 feet to a point on the westerly right-of-way line of Oxford Court, 50 feet wide, thence,

- 4) leaving with said Lot 77 and running by and with said right-of-way line of Oxford Court, the following two courses and distances, South 23 degrees 12 minutes 42 seconds East 40.22 feet to a point of curvature, thence running,
- 5) by and with a curve deflecting to the right with an arc length of 27.43 feet, a radius of 25.00 feet, and a chord bearing and distance of South 08 degrees 13 minutes 24 seconds West 26.08 feet to a point of reverse curvature on the westerly right-of-way line of the transition from said Oxford Court to Limerick Drive, 60 feet wide, thence,
- 6) leaving said Oxford Court and running by and with said transition with a curve deflecting to the left with an arc length of 82.41 feet, a radius of 114.00 feet and a chord bearing and distance of South 18 degrees 56 minutes 59 seconds West 80.63 feet to a point of reverse curvature on the northwesterly right-of-way line of said Limerick Drive, thence,
- 7) leaving said transition and running by and with said Limerick Drive, the following two courses and distances, with a curve deflecting to the right with an arc length of 39.18 feet, a radius of 35.00 feet and a chord bearing and distance of South 30 degrees 18 minutes 31 seconds West 37.16 feet to a point of tangency, thence running,
- 8) South 62 degrees 22 minutes 35 seconds West 65.21 feet to a point of curvature on the aforementioned northeasterly right-of-way line of Mersey Drive, thence,
- 9) leaving said Limerick Drive and running by and with said right-of-way line of Mersey Drive, the following two courses and distances, with a curve deflecting to the right with an arc length of 35.32 feet, a radius of 25.00 feet, and a chord bearing and distance of North 77 degrees 08 minutes 39 seconds West 32.46 feet to a point of reverse curvature, thence running,
- 10) by and with a curve deflecting to the left with an arc length of 11.24 feet, a radius of 325.00 feet, and a chord bearing and distance of North 37 degrees 39 minutes 20 seconds West 11.24 feet to the point and place of beginning;

CONTAINING 13,313 square feet of land, more or less.

**Stormwater Area 1, Parcel J**

BEGINNING at a point formed by the intersection of the westerly right-of-way line of Worcester Drive, 50 feet wide, with the northerly line of Lot 232, thence,

- 1) leaving said Worcester Drive and running by and with said Lot 232 and also running by and with Lots 233, 234 and 235, South 80 degrees 24 minutes 53 seconds West 321.15 feet to a point on the northerly line of Lot 236, thence,
- 2) leaving said Lot 235 and running by and with said Lot 236, South 87 degrees 54 minutes 25 seconds West 50.44 feet to a point on the northeasterly line of Lot 237, thence,
- 3) leaving said Lot 236 and running by and with said Lot 237, North 52 degrees 43 minutes 24 seconds West 72.99 feet to a point on the northerly line of Lot 238, thence,
- 4) leaving said Lot 237 and running by and with said Lot 238, North 63 degrees 48 minutes 31 seconds West 109.69 feet to a point on the northerly line of Lot 239, thence,
- 5) leaving said Lot 238 and running by and with said Lot 239 and also running by and with Lots 240 and 241, North 79 degrees 13 minutes 58 seconds West 215.96 feet to a point on the southeasterly line of Lot 210, thence,

- 6) leaving said Lot 241 and running by and with said Lot 210 and also running by and with Lots 211, 212 and 213, North 35 degrees 02 minutes 57 seconds East 329.61 feet to a point on the southeasterly line of Lot 214, thence,
- 7) leaving said Lot 213 and running by and with said Lot 214, North 30 degrees 55 minutes 17 seconds East 38.46 feet to a point on the southeasterly line of Lot 215, thence,
- 8) leaving said Lot 214 and running by and with said Lot 215 and also running by and with Lots 216, 217, 218, 219 and 220, North 56 degrees 55 minutes 30 seconds East 438.49 feet to a point on the southeasterly line of Lot 221, thence,
- 9) leaving said Lot 220 and running by and with said Lot 221, South 82 degrees 04 minutes 39 seconds East 28.04 feet to a point on the southeasterly line of Lot 222, thence,
- 10) leaving said Lot 221 and running by and with said Lot 222 and also running by and with Lots 223 and 224, South 49 degrees 35 minutes 34 seconds East 208.04 feet to a point on the northwesterly line of Lot 226, thence,
- 11) leaving said Lot 224 and running by and with said Lot 226 and also running by and with Lot 227, South 40 degrees 23 minutes 28 seconds West 153.60 feet to a point on the westerly line of Lot 228, thence,
- 12) leaving said Lot 227 and running by and with said Lot 228, South 24 degrees 49 minutes 39 seconds West 109.69 feet to a point on the westerly line of Lot 229, thence,
- 13) leaving said Lot 228 and running by and with said Lot 229, South 04 degrees 16 minutes 46 seconds West 112.87 feet to a point on the westerly line of Lot 230, thence,
- 14) leaving said Lot 229 and running by and with said Lot 230 and also running by and with Lot 231, South 09 degrees 35 minutes 07 seconds East 152.15 feet to a point, thence,
- 15) continuing by and with said Lot 231, North 80 degrees 24 minutes 53 seconds East 100.00 feet to a point on the aforementioned westerly right-of-way line of Worcester Drive, thence,
- 16) leaving said Lot 231 and running by and with said Worcester Drive, South 09 degrees 35 minutes 07 seconds East 18.86 feet to the point and place of beginning;

CONTAINING 6.4187 acres of land, more or less.

**Stormwater Area 2, Parcel K**

BEGINNING at a point formed by the intersection of the southwesterly right-of-way line of Hebron Road, 70 feet wide, with the northwesterly line of Parcel H of "Canal Point, Residential Planned Community," being of record in the Office of the Recorder of Deeds, in and for Sussex County, at Georgetown, Delaware, in Plot Book 153, Page 16, thence,

- 1) leaving said Hebron Road and running by and with said Parcel H, South 57 degrees 56 minutes 48 seconds West 254.15 feet to a point on the northeasterly line of "Sandalwood Subdivision", being of record in the aforementioned Office of the Recorder of Deeds in Plot Book 32, Page 327, thence,
- 2) leaving said Parcel H and running by and with said "Sandalwood Subdivision", North 32 degrees 00 minutes 46 seconds West 282.95 feet to a point on the southeasterly line of Parcel D of "Canal Point, Residential Planned Community," being of record in the aforementioned Office of the Recorder of Deeds in Plot Book 153, Page 16, thence,

- 3) leaving said "Sandalwood Subdivision" and running by and with said Parcel D, North 57 degrees 56 minutes 48 seconds East 253.95 feet to a point on the aforementioned southwesterly right-of-way line of Hebron Road, thence,
- 4) leaving said Parcel D and running by and with said right-of-way line of Hebron Road, South 32 degrees 03 minutes 12 seconds East 282.95 feet to the point and place of beginning;

CONTAINING 1.6502 acres of land, more or less.

Stormwater Area 3, Parcel L

BEGINNING at a point formed by the intersection of the northerly right-of-way line of Mersey Drive, 50 feet wide, with the easterly line of Lot 280, thence,

- 1) leaving said Mersey Drive and running by and with said Lot 280 the following two courses and distances, North 12 degrees 10 minutes 30 seconds West 100.00 feet to a point, thence running,
- 2) South 72 degrees 05 minutes 40 seconds West 90.97 feet to a point on the northerly line of Lot 281, thence,
- 3) leaving said Lot 280 and running by and with said Lot 281 and also running by and with Lot 282, South 62 degrees 22 minutes 35 seconds West 137.82 feet to a point, thence,
- 4) continuing by and with said Lot 282 and also running by and with Lot 283, South 25 degrees 52 minutes 32 seconds West 85.13 feet to a point, thence,
- 5) continuing by and with said Lot 283 and also running by and with Lot 284, South 67 degrees 37 minutes 06 seconds West 92.56 feet to a point on the northerly line of Lot 285, thence,
- 6) leaving said Lot 284 and running by and with said Lot 285 and also running by and with Lot 286, South 81 degrees 53 minutes 09 seconds West 155.04 feet to a point on the easterly line of Lot 288, thence,
- 7) leaving said Lot 286 and running by and with said Lot 288 and also running by and with Lot 289, North 00 degrees 14 minutes 10 seconds East 119.92 feet to a point on the southeasterly line of Lot 290, thence,
- 8) leaving said Lot 289 and running by and with said Lot 290, North 38 degrees 28 minutes 45 seconds East 99.46 feet to a point on the southwesterly line of Henlopen Keys Subdivision as recorded in the aforesaid Office of the Recorder of Deeds in Plot Book 20, Page 110 and Plot Book 12, Page 32, thence,
- 9) leaving said Lot 290 and running by and with said Henlopen Keys Subdivision, the following seven courses and distances, South 51 degrees 31 minutes 15 seconds East 107.01 feet to a point, thence running,
- 10) North 54 degrees 23 minutes 50 seconds East 180.73 feet to a point, thence running,
- 11) South 86 degrees 31 minutes 15 seconds East 50.00 feet to a point, thence running,
- 12) North 03 degrees 28 minutes 45 seconds East 70.00 feet to a point, thence running,
- 13) by and with the arc of a curve deflecting to the right with an arc length of 47.12 feet, with a radius of 30.00 feet, the chord of which bears North 48 degrees 28 minutes 59 seconds East 42.42 feet to a point, thence running,
- 14) South 86 degrees 31 minutes 15 seconds East 120.00 feet to a point, thence running,

- 15) North 03 degrees 28 minutes 45 seconds East 35.99 feet to a point on the southerly line of Open Space Area 1, Parcel F, thence,
- 16) leaving said Henlopen Keys Subdivision and running by and with said Open Space Area 1, Parcel F, South 86 degrees 31 minutes 15 seconds East 18.04 feet to a point on the southwesterly line of Lot 73, thence,
- 17) leaving said Open Space Area 1, Parcel F and running by and with said Lot 73 and also running by and with Lot 74, South 32 degrees 04 minutes 09 seconds East 145.65 feet to a point on the northerly line of Lot 279, thence,
- 18) leaving said Lot 74 and running by and with said Lot 279, the following two courses and distances, South 86 degrees 14 minutes 00 seconds West 91.00 feet to a point, thence running,
- 19) South 09 degrees 20 minutes 44 seconds East 100.00 feet to a point on the aforementioned northerly right-of-way line of Mersey Drive, thence,
- 20) leaving said Lot 279 and by and with said northerly right-of-way line of Mersey Drive, along the arc of a curve deflecting to the left with an arc length of 16.05 feet, with a radius of 325.00 feet and a chord bearing and distance of South 79 degrees 14 minutes 23 seconds West 16.05 feet to the point and place of beginning;

CONTAINING 1.6575 acres of land, more or less.

Consideration:	.00
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County	.00
State	.00
Town Total	.00

Received: Kara S Sep 02, 2015

Recorder of Deeds  
 Scott Dailley  
 Sep 02, 2015 02:07P  
 Sussex County  
 Doc. Surcharge Paid

**RECEIVED**  
 Sep 02, 2015  
**ASSESSMENT DIVISION**  
**OF SUSSEX COUNTY**



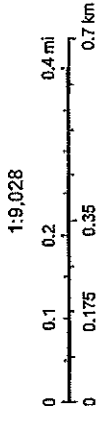


# Sussex County



<b>PIN:</b>	334-13.00-1745.00
<b>Owner Name</b>	THE GRANDE AT CANAL POINTE MAINTENANCE
<b>Book</b>	4441
<b>Mailing Address</b>	PO BOX 1418
<b>City</b>	REHOBOTH BEACH
<b>State</b>	DE
<b>Description:</b>	CANAL POINT OPEN
<b>Description 2</b>	AREAS 1234 PARCELS
<b>Description 3</b>	F G H I
<b>Land Code</b>	

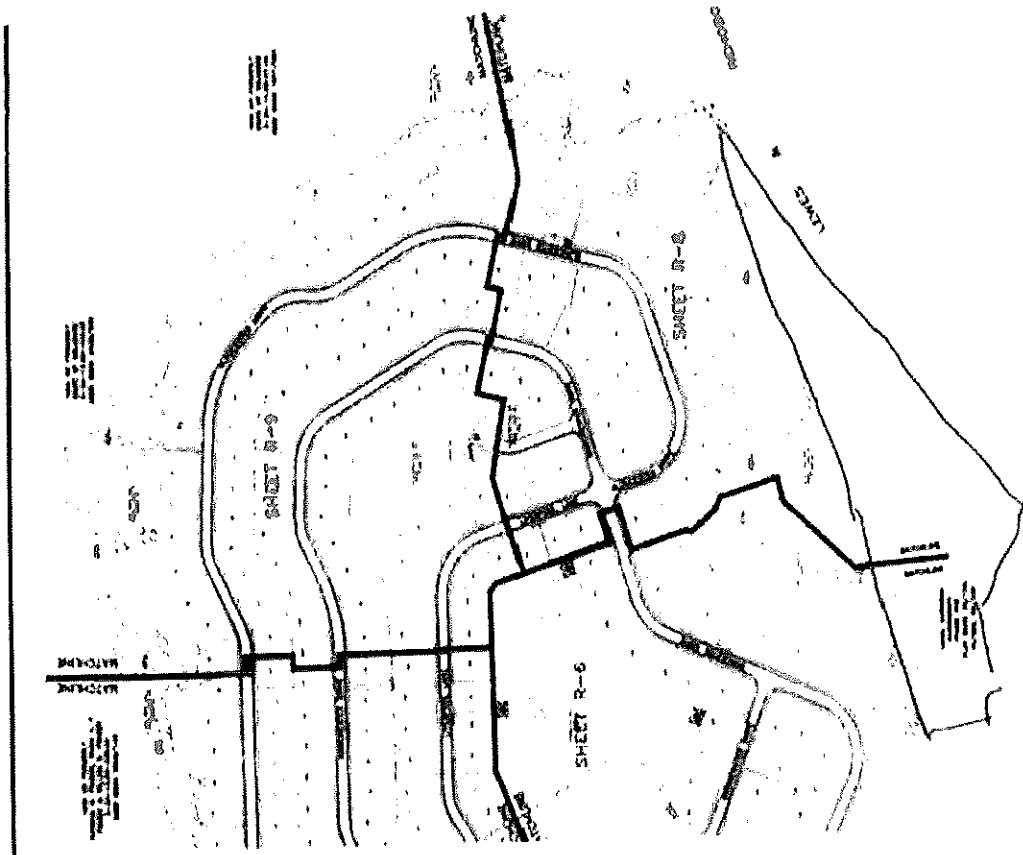
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- Override 1
- polygonLayer
- Override 1
- Tax Parcels
- Streets
- County Boundaries





BAIRD  
MANDALAS  
BROCKSTEDT 

# EXHIBIT H



[REDACTED] 12/27/71  
 1. CHECKED BY: [REDACTED]  
 2. DRAWN BY: [REDACTED]  
 3. DATE: 12/27/71  
 4. SCALE: [REDACTED]



BAIRD  
MANDALAS  
BROCKSTEDT LLP

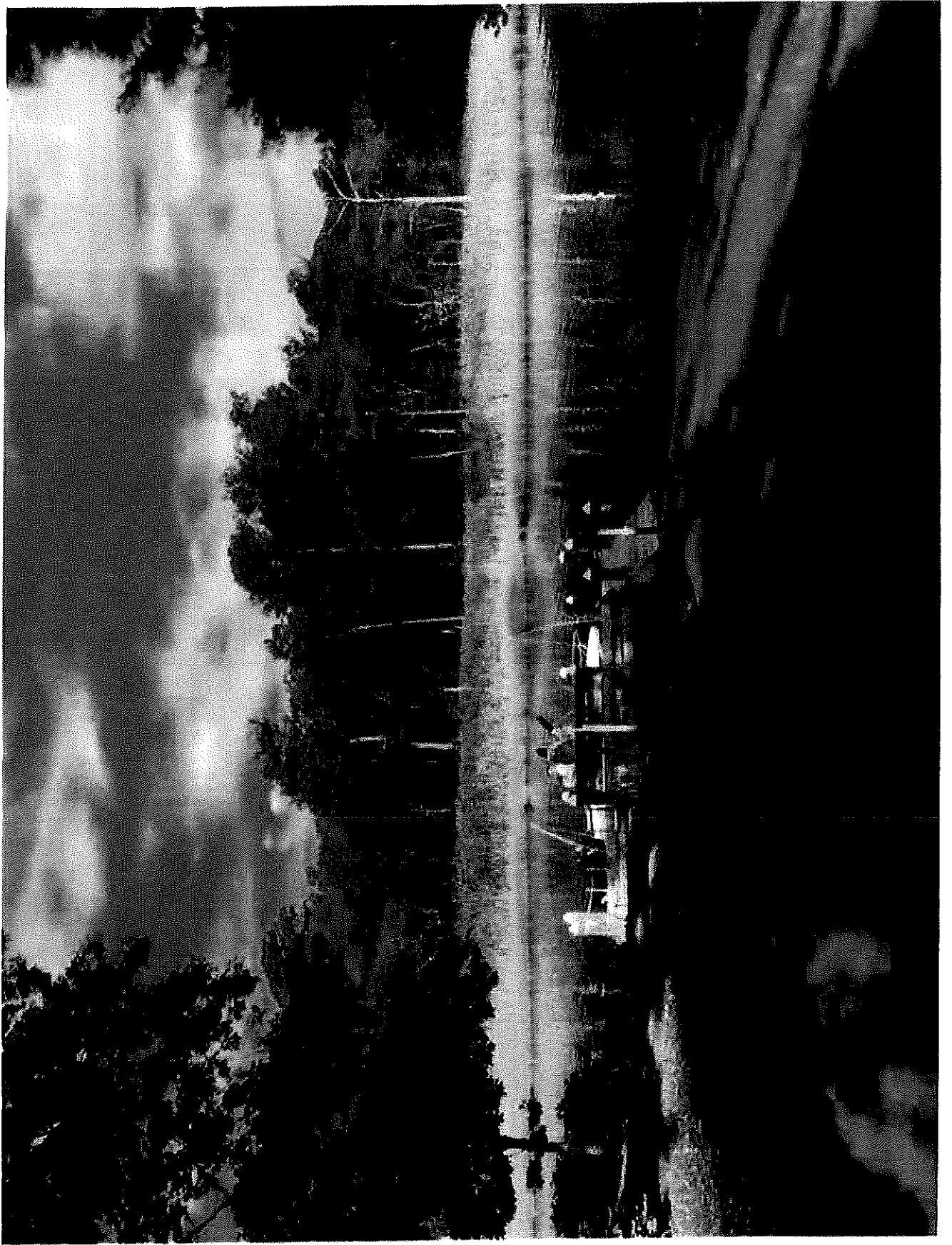
# EXHIBIT I

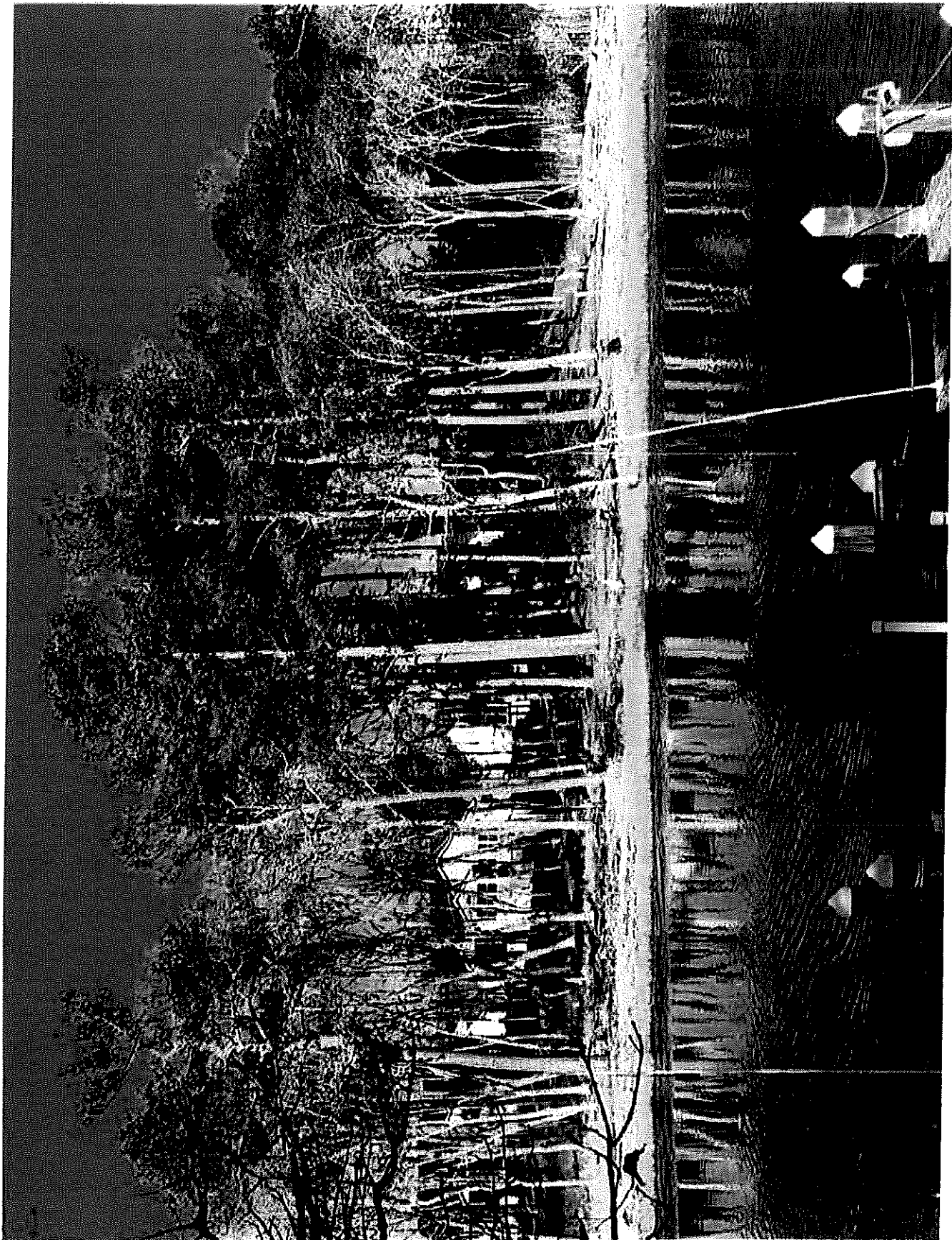




BAIRD  
MANDALAS  
BROCKSTEDT LLP

# EXHIBIT J









JOHN W. PARADEE  
302.677.0061  
John@bmbde.com

June 10, 2021

Sussex County Council  
2 The Circle  
Georgetown, Delaware 19947

**RE: Opposition to Application #C/Z 1926  
CP Townhomes, LLC (Canal Pointe RPC)  
Boat Dock Application for The Grande at Canal Pointe**

Dear Sirs/Madam:

We represent a number of residents and property owners within the immediate vicinity of the residential subdivision known as The Grande at Canal Pointe (the "Subdivision"), adjacent to the Lewes & Rehoboth Canal (the "Canal"). We write to express our opposition to the above-referenced application (the "Application") as it is presently postured, and further, to respectfully request that you place a number of limitations upon any approval of the Application you might consider in order to pay due respect and justice to the serious environmental, water safety, and other issues discussed hereinbelow.

***The Original Subdivision Approval Granted in 2004  
Imposed Condition #15 for Good Reason***

The residential subdivision known as The Grande at Canal Pointe (Application #C/Z 1538) was approved by Sussex County Council on May 25, 2004. Notably, at the time Application #C/Z 1538 was presented to Council, there was significant public opposition to proposed Subdivision, particularly from neighboring property owners in the existing communities of Henlopen Keys, The Glade, and Sandalwood. Indeed, numerous letters submitted by the public in opposition to the Subdivision expressed serious and credible concerns relating to the potential impacts of the Subdivision on existing natural buffers, wetlands, open space, wildlife habitat, indigenous endangered species, nutrient management, and Total Maximum Daily Loads (TMDLs) in the Canal. See Exhibit "A" attached. Additionally, the Delaware Department of Natural Resources and Environmental

Control (DNREC) expressed serious reservations about the Subdivision's potential impact on the Canal and adjacent wetland areas. See Exhibit "B" attached. Accordingly, when approving Application #C/Z 1538, Sussex County Council imposed twenty (20) conditions upon its approval of the Subdivision in order to "minimize any potential impacts on the surrounding area." Among those conditions was Condition #15, which reads as follows:

**15. No piers, docks, boat ramps, or other water related recreational facilities shall be permitted.**

It should thus be obvious that, when approving the Subdivision in 2004, Sussex County Council was sufficiently concerned about the potential impacts of the Subdivision upon the Canal and the adjacent wetlands and natural vegetated buffers that Council wisely exercised its judgment and legislative discretion to prohibit the residents of the Subdivision from installing any "water related recreational facilities" along the Canal. In the 17 years since the Subdivision was approved, *nothing has changed which justifies the removal of Condition #15*. To the contrary, if anything, the alarm expressed by the public and by DNREC in 2004 rings ever more loudly today, in 2021 – with increasing density, development, and waterway traffic along the Canal, and with continuing intrusions upon the precious ecological environs of the Canal, the threat to existing natural buffers, wetlands, open space, wildlife habitat, indigenous endangered species, nutrient management, and Total Maximum Daily Loads (TMDLs) in the Canal is even greater today. For this reason, Condition #15 should not only not be removed or revised – it should be reaffirmed as originally written.

***Every Homeowner in Canal Pointe  
Took Title with Notice of Condition #15***

The suggestion that it is only "fair" for the residents of the Subdivision to be permitted to install a "recreational dock/pier" along the Canal because there are already other several other private docks along the Canal and a marina within the Henlopen Acres community is both factually disingenuous and legally unsustainable. First and foremost, all of the other docks along the Canal are *private* docks – for the use of a single lot owner. Second, unlike the instant Application, none of those docks were otherwise prohibited by local land use regulations or approvals. Third, none of those docks protrude into the Canal as

deeply as the “recreational dock/pier” proposed by the present Application. As for the marina within the Henlopen Acres community, that marina has been in place since at least the 1930s<sup>1</sup>, it does not protrude into the Canal, and it is located within a completely different jurisdiction, subject to and entirely compliant with a wholly distinct regulatory scheme, and thus, there is simply no basis for comparing the longstanding marina to the present Application.

Most critically, from a legal perspective, each and every property owner within the Subdivision took title to their lot with constructive notice of the existence of Condition #15, and they are all therefore legally bound by the dictates of Condition #15 – “no piers, docks, boat ramps, or other water related recreational facilities shall be permitted.” Simply stated, there is no legal or other “right” for anyone in the Subdivision to install a “recreational dock/pier” along the Canal.

***The Application is Excessive in Scope and Magnitude***

The Application requests that County Council “remove” Condition #15 in its entirety, while at the same time professing that the Applicant merely seeks to “install one recreational dock/pier for the community to launch small, non-motorized watercraft, such as kayaks, canoes and paddle boards and for fishing.” If the Applicant’s intentions are as limited as the Applicant professes, then there is certainly no need to “remove “ Condition #15 in its entirety. Thus, as written and presented, the Application seeks more than the Applicant professes to want or desire.

Here it is critical to note that there are **571 units** located within the Subdivision. Accordingly, the elimination of Condition #15 would not only open the floodgates for all sorts of water related recreational facilities serving the residents of the Subdivision – it would introduce more than 1,000 additional individuals into one of the more narrow and environmentally-sensitive channels of the Canal. It should this be readily apparent that, if any “recreational dock/pier” is to be permitted here at all, it must be severely limited in scope and magnitude in order to avoid an environmental travesty and obvious water safety concerns. See, for example, the correspondence (enclosed herewith as Exhibit “D”) from David Green, the owner and operator of Cape Water Tours and Taxi, explaining the

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<sup>1</sup> See Exhibit “C” attached.

safety hazards posed by a “recreational dock/pier” of the scope and magnitude proposed by the Application in this particularly narrow part of the Canal.

Given that the location of the “recreational dock/pier” proposed by the Application is such a pristine and ecologically sensitive part of the Canal, and recognizing the obvious water safety risks of inviting more than 1,000 additional individuals to recreate in this very narrow part of the Canal, *if* Sussex County Council is inclined to approve the Application in any degree, then certainly nothing more than a strictly limited kayak/canoe launch would be appropriate. See, for example, the renderings attached hereto as Exhibit “E”.

### ***Other (Technical) Concerns***

There are a number of other, more technical concerns our clients have regarding the Application. If an acceptable resolution or disposition of the Application can be achieved which satisfactorily addresses all of the other concerns identified above, then we would anticipate that these other, more technical concerns can likewise be satisfactorily addressed – but in the interests of full transparency, we are compelled to raise these other, more technical concerns here and now, to-wit:

1. We question whether the entities identified as the “Applicant” and the “Owner” on the Application – CP Townhomes, LLC and Canal Pointe Maintenance Corporation – have legal standing to present same. According to the last Deed of record, the owner of legal title to the subject property is “The Grande at Canal Pointe Maintenance Corporation”. See Exhibit “F” enclosed. Perhaps this is the same entity as “Canal Pointe Maintenance Corporation”, but we have not been able to confirm as much. Likewise, we have not been able to ascertain how or why “CP Townhomes, LLC” may have legal standing to present the Application.

2. More critically, the location of the “recreational dock/pier” proposed by the Application appears to be located upon lands owned by someone other than The Grande at Canal Pointe Maintenance Corporation. See Exhibits “G” (a plot plan) and “H” (a photograph showing a survey stake in the Canal) enclosed, both of which suggest that the location of the “recreational dock/pier” proposed by the Application would fall within the boundary lands owned by someone other than The Grande at Canal Pointe Maintenance Corporation – upon information and belief, the lands in question are now owned by a gentleman named Michael Firetti,

who we believe purchased same from Bryce Lingo or affiliates. We suspect that you may hear from this owner separately.

***If You Permit a Kayak/Canoe Launch, You Should Impose Conditions Designed to Minimize the Obvious Environmental and Water Safety Risks***

For all of the reasons set forth above, we respectfully request that the Application be denied. In the event that you determine to grant the Application in some degree, then we respectfully request that you impose the following conditions:

1. Condition #15 of the original Subdivision Plan approval should be modified, rather than removed in its entirety, to create a limited and carefully-crafted exception consistent with the other conditions set forth below. We would be happy to provide suggested language.
2. The scope, design, and dimensions of the proposed dock are reduced to that necessary for no more than a kayak/canoe launch. See Exhibit "E" attached.
3. No storage facilities or other structures or improvements shall be located on or within the subject parcel.
4. No bathrooms, running water, electricity/lighting, or parking shall be located on or within the subject parcel.
5. No motorized watercraft of any kind.
6. Provide secure fencing (with a fob pass like the Subdivision currently employs at its entrance), to prevent members of the public from accessing the kayak/canoe launch. This would help reduce the risk of trespassers utilizing the launch and/or causing any damage to the launch or surrounding area.
7. Appropriate protections for the American Eagles and other endangered or protected wildlife nesting or roosting in the area.
8. Replant/restore the natural buffer that was removed (in violation of Condition #14 and County buffer regulations), except to the extent minimally required to accommodate the kayak/canoe launch. See the before and after photos enclosed as Exhibit "I", showing the extent to which the previous natural buffer has been "denuded".

Sussex County Council  
June 10, 2021  
Page 6

In closing, I ask that this letter be included as part of the record of your June 15, 2021 public hearing, and I thank you for your consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read "John W. Pardee". The signature is written in a cursive style with a large, stylized initial "J" and "P".

John W. Pardee

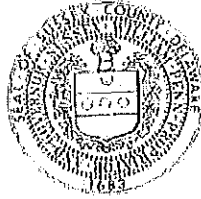
JWP/lwr  
Enclosures



BAIRD  
MANDALAS  
BROCKSTEDT <sup>LLP</sup>

# EXHIBIT A

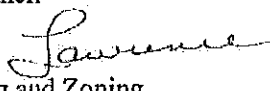
Sussex County  
Planning & Zoning Commission  
P.O. Box 417  
Georgetown, DE 19947  
302-855-7878  
302-854-5079 (Fax)



John L. Allen, Chairman  
Robert C. Wheatley, Vice Chairman  
W. Layton Johnson  
Ronald P. Lynch  
Benjamin Gordy  
Lawrence B. Lank, Director

MEMORANDUM

TO: Sussex County Council

FROM: Lawrence B. Lank   
Director of Planning and Zoning

REF: Rebay, LLC  
C/Z #1538

DATE: June 16, 2004

Please be reminded that on May 25, 2004 the Council deferred action on Change of Zone No. 1538, the application of Rebay, LLC, and left the record open for a period of 15 days to allow time for the opposition to submit additional testimony. The 15 days ended at 4:30 p.m. on June 9, 2004.

Enclosed please find copies of all written comments received from May 25, 2004 through June 9, 2004 for your review.

Attached please find a copy of the Planning and Zoning Commission record for the public hearing on May 6, 2004 and their decision of June 10, 2004.

Should you have any questions, please do not hesitate to contact me at this Department.

Cc: Robert L. Stickels, County Administrator  
James Griffin, County Attorney



C/Z #1538 – application of **REBAY, LLC** to amend the Comprehensive Zoning Map from a MR Medium Density Residential District to a MR-RPC Medium Density Residential District – Residential Planned Community for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, land lying southeast of Route 271 (Holland Glade Road), 3,150 feet northeast of Route One, to be located on 180.60 acres, more or less.

The Commission found that the Applicant had submitted an exhibit booklet prior to the meeting and that the exhibit booklet included a presentation outline, references to zoning, references to a land utilization plan, civil engineering, traffic, the environment, and economic impacts. The exhibit booklet is made a part of the record for these proceedings.

Mr. Lank provided the Commission with a copy of the site plan and a packet of correspondence from agencies and individuals to date. The packet includes comments from DelDOT, the Office of State Planning Coordination, the State Historic Preservation Office, 25 letters in opposition and a petition containing 95 signatures from residents in Canal Corkran Development requesting that consideration be given to the creation of a traffic signal to monitor and make possible a safe flow of traffic off and on Rehoboth Avenue Extended for Canal Corkran and this project. All of the comments are made a part of the record for these proceedings.

The Commission found that Hal Dukes, a partner in Rebay, was present with Chuck Howser and Zack Crouch of Davis, Bowen and Friedel, Inc., Steve Raign of Ramesh Batta Associates and Juanita Morch of the Rehoboth Beach Senior Citizen's Association, and that they stated in their presentations and in response to questions raised by the Commission that the use is in compliance with the Comprehensive Plan Update; that the majority of the site is zoned MR Medium Density Residential, which would allow for development of 4 units per acre; that the site was rezoned to MR prior to the creation of Sandalwood or The Glade; that there will be no impacts on wetlands; that the RPC would be permitted to have 6 acres of commercial use of which 24% is proposed to be dedicated to a senior center; that the project benefits the area by the creation of a connector road from Road 271 to Rehoboth Avenue Extended; that a lot of the people in the audience are in support of the project due to the proposed senior center, that petitions in support of the project have generated 1645 signatures; that they propose a town center type of development with mixed housing, amenities and commercial uses; that they propose to develop 283 single family lots, 82 townhouses, and 252 condominiums; that an area is proposed to be set aside for county services, i.e. emergency facilities; that the layout of the project attempts to preserve as many trees as possible; that walking trails will be provided; that there will be two swimming pools and community facilities, one in the single family subdivision area and one in the multi-family area; that they have worked with DelDOT, DNREC and the Sussex Conservation District in their design to provide as much open space as possible; that 72 acres of the site will remain in open space; that the connector road between Road 271 and Rehoboth Avenue Extended will be dedicated to public use and built to State specification; that subdivision streets in the project will be built to State specification with rolled curbs and sidewalks; that streets in the multi-family areas will be built to County specification; that the project will not exceed to

number of EDU permitted by sewer capacity; that the pump stations in the area have been designed to include to calculations for this project; that water will be provided by the City of Rehoboth Beach; that the Office of the State Fire Marshal has approved the design of the multi-family buildings; that the site has recently been reviewed through the Preliminary Land Use Service (PLUS) program with the Office of State Planning Coordination; that several wet ponds are designed in the project; that the multi-family buildings face existing and proposed water features; that some bio-swales will be utilized; that all wetlands have been delineated; that they propose a minimum setback of 150-feet from tidal wetlands; that the plan reduces Nitrogen by 64% and Phosphorus by 93%; that the Traffic Impact Study performed reviewed 13 intersections in the area and the connector road; that the connector road helps reduce the amount of traffic going onto Route One; that the developer will be constructing the connector road for DelDOT; that the developer will be contributing to the erection of a traffic signal at Rehoboth Avenue Extended; that Holland Glade Road (Road 271) will be brought up to standards from Route One to the Connector Road by expanding the drive lanes to 11 feet width and adding 5-foot shoulders with bike lane markings; that no additional traffic signals are proposed on Route One; that representatives of the senior center contacted the developer with interest in obtaining a portion of the site for a new center; that the center in Rehoboth Beach is not adequate to serve the number of members and that parking is a problem; that the members are in support of the creation of a new center; that the members patronize businesses in the area and volunteer at the schools, hospitals and other functions; that the petition in support was signed by members of the senior center and others in support; that streets in the project will be turned over to a home owners association when 75% of the properties are sold; that the senior center will be built at the beginning of the project; that the center needs a commercial kitchen, area to seat 500 people; computer labs, and meeting rooms; that the center serves citizens within an area of 22 miles; that commercial uses intended are low volume uses, i.e. sandwich shop, doctors offices; that the commercial area could have been located centrally within the project, but the location was chosen due to the closeness to the collector road; that landscaping and berms along the Sandalwood subdivision would reduce the impact on Sandalwood; that the 5 acre parcel set aside for county services was anticipated to serve as space for possible fire, police, and emergency uses.

The Commission found, by a show of hands that there were approximately 70 people present in support and that there were approximately 21 people present in opposition.

The Commission found that William Lingo, one of the developers of Canal Corkran, was present in support of the project and stated that he does not oppose this application since the use is compatible with the Canal Corkran project, a residential planned community, that the project creates multi-family units across from multi-family units in Canal Corkran and single family units across from single family units; that units will face the existing pond in both projects; that residents in Sandalwood should be given reconsideration in the design and location of the commercial area; that the collector road

will benefit the area and creates interconnectivity; that a signal will be installed at Rehoboth Avenue and Church Street; and that if the application is approved it should be stipulated that the pond between the projects should serve both projects; that a traffic signal should be installed at Church Street and Rehoboth Avenue; that the Applicant should enter into a signal agreement with DelDOT for a traffic signal; and that the Applicant should offer to pay his fair portion of the signal now.

The Commission found that Jeffrey Smith, Charles Valenti, Ann Sier, Sally Danz, Tom Rush, Michael Tyler and Mable Granke, of the 21 present in opposition expressed concerns that the rezoning would create higher density multi-family uses in an area surrounded by single family lots and homes and that it would not be in keeping with the existing zoning; that the commercial area is not needed or desirable; that the rear of commercial establishments should not back up to residential lots; that there are sufficient commercial facilities in the immediate area; that the commercial area is situated immediately adjacent to a neighboring single family subdivision and, if approved, should be centralized within the project so as not to impact neighboring subdivisions; that the county service area is not described or uses explained; that traffic is already a problem; that the traffic impact summary referenced that 4 intersections in the area are currently failing; that this project will add to the traffic problems; that a cemetery may exist on the site and should be protected; that the Applicant should have been required to show a comparison site plan of a subdivision layout; that there are public safety and health concerns; that Road 271 is a narrow county road with no shoulders already serving approximately 329 homes, a church, and a little league park; that a senior center at this location could be hazardous for the members of the center due to the lack of response time for emergency personnel to get to the location; that Route One can get grid-locked; that the addition of another 617 units will make things worse; that there is no solution to the traffic problem; that the infrastructure and services are not there to support a connector road; that a building moratorium should be established until the traffic problems are resolved; that the wildlife in the area will be impacted; that the neighbors would probably not object to a single family residential subdivision; that the area is an environmentally sensitive area and should not be considered a developing area; that development in an environmentally sensitive area which includes wetlands and tidal waters should be protected; that the size of the project and the cumulative impacts it generates need to be addressed; that the infrastructure should be in place prior to approval of this size of project; that a senior center can be built in many other locations and have far less negative consequences; that if the Applicant would sincerely commit to create a conservation design, eliminate multi-family housing and commercial uses, provide permanent user-friendly open space and create a community that is compatible with the surrounding single family residences, the project may be supported by the people of Coastal Sussex; that concerns were expressed about the date and time of receipt of comments from DelDOT and the Office of State Planning Coordination; that forested lands have been consistently shown to be far more effective agents for absorbing nutrients and other pollutants; that removal of forest cover will almost certainly increase

pollutant loading into the Inland Bays and make it more difficult for Delaware to comply with TMDL nutrient load reduction requirements.

The Commission found that Jeffrey Smith and Michael Tyler submitted their comments in written form and that Mr. Smith submitted photographs of the rear of some commercial establishments in the area.

On June 10, 2004 the Commission discussed this application which has been deferred since May 6, 2004.

Mr. Johnson asked Mr. Robertson to read Mr. Johnson's recommendations.

Mr. Robertson read that Mr. Johnson moves that the Commission recommend approval of C/Z #1538 for REBAY, LLC based upon the information contained in the record and for the following reasons:

- 1) The proposed MR-RPC project meets the purpose of the Zoning Ordinance in that it promotes the orderly growth of the County because the proposed project is in a Development District as established by the Comprehensive Land Use Plan.
- 2) Most of this property has been zoned Medium Density Residential for a long time.
- 3) Sewer service will be provided as part of a County operated Sanitary Sewer District, and adequate wastewater capacity is available for the project.
- 4) The Project, with the conditions placed upon it, will contain a diversity of housing types and pedestrian and motor vehicular circulation. It will also promote interconnection between this area and surrounding developments and Rehoboth Beach.
- 5) With the conditions placed upon this project, the RPC designation is appropriate for this parcel of land in that the purpose of an RPC is to encourage large scale development as a means to create superior living environments and the use of design ingenuity while protecting existing and future uses.
- 6) The project will have a net density of 3.58 units per acre. This is consistent with the existing MR zoning of the property.
- 7) This recommendation is subject to the following conditions:
  - 1) The maximum number of residential units shall not exceed 617 units as follows:
    - 310 Single Family Lots
    - 307 Multi-Family or Townhouse Units
  - 2) There shall not be any multi-family or townhouse units within 300 feet of the Henlopen Keys development.
  - 3) The reference to "County Service Area" must be deleted from the Final Site Plan.
  - 4) Site plan review shall be required for each phase of development.
  - 5) All entrance, intersection, interconnection, roadway and multi-modal improvements required by DeIDOT shall be completed by the applicant in

- accordance with DelDOT's requirements, or in accordance with any further modifications required by DelDOT.
- 6) Recreational facilities and amenities shall be constructed and open to use by residents of the development within 2 years of the issuance of the first building permit.
  - 7) The development shall be served as part of the West Rehoboth Sanitary Sewer District in accordance with Sussex County Engineering Department specifications and regulations.
  - 8) The MR-RPC shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable regulations.
  - 9) Stormwater management and erosion and sediment control facilities shall be constructed in accordance with applicable State and County requirements. These facilities shall be operated in a manner that is consistent with Best Management Practices (BMPs).
  - 10) The interior street design shall be in accordance with or exceed Sussex County street design requirements and/or specifications. Street design shall include sidewalks on both sides of the streets and street lighting.
  - 11) The applicant shall submit as part of the site plan review a landscape plan showing the proposed tree and shrub landscape design.
  - 12) Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur from Monday through Saturday and only between the hours of 7:00 a.m. and 6:00 p.m.
  - 13) The applicant shall cause to be formed a homeowners or condominium association to be responsible for the maintenance of the streets, roads, buffers, open spaces, stormwater management facilities and other common areas.
  - 14) State wetlands shall not be included in any individual lots. Federal and State wetlands shall be maintained as non-disturbance areas, except where authorized by Federal or State permit.
  - 15) No piers, docks, boat ramps, or other water related recreational facilities shall be permitted.
  - 16) The proposed Senior Center, based on the testimony by the applicant and supporters of the project, shall be located on at least four (4) acres of land. It shall include parking in accordance with County requirements for a large-scale center such as the one proposed for a capacity of at least 500 people, as stated during the public hearing. This parking shall be shown on the Final Site Plan.
  - 17) There shall be no commercial uses in the project, including the area adjacent to Sandalwood, with the limited exception of a sales facility for the duration of the development of the project.

- 18) No multi-family units shall be located in the area adjacent to the pond shown on the preliminary site plan between this project and Canal Corkran. Only townhouses or single family units shall be located in this area.
- 19) Any residential uses between Sandalwood and the Connector Road, also known as Hebron Road, shall be limited to single family lots

Mr. Johnson moved that the Commission recommend approval of the application for the reasons and with the conditions read.

The motion died for the lack of a second.

The Commission discussed the reasons and conditions.

Motion by Mr. Johnson, seconded by Mr. Gordy, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the following reasons and with the following conditions:

- 1) The proposed MR-RPC project meets the purpose of the Zoning Ordinance in that it promotes the orderly growth of the County because the proposed project is in a Development District as established by the Comprehensive Land Use Plan.
- 2) Most of this property has been zoned Medium Density Residential for a long time.
- 3) Sewer service will be provided as part of a County operated Sanitary Sewer District, and adequate wastewater capacity is available for the project.
- 4) The Project, with the conditions placed upon it, will contain a diversity of housing types and pedestrian and motor vehicular circulation. It will also promote interconnection between this area and surrounding developments and Rehoboth Beach.
- 5) With the conditions placed upon this project, the RPC designation is appropriate for this parcel of land in that the purpose of an RPC is to encourage large scale development as a means to create superior living environments and the use of design ingenuity while protecting existing and future uses.
- 6) The project will have a net density of 3.58 units per acre. This is consistent with the existing MR zoning of the property.
- 7) This recommendation is subject to the following conditions:
  - 1) The maximum number of residential units shall not exceed 562 units as follows:
    - 310 Single Family Lots
    - 252 Multi-Family or Townhouse Units
  - 2) There shall not be any multi-family or townhouse units within 300 feet of the Henlopen Keys development.
  - 3) The reference to "County Service Area" must be deleted from the Final Site Plan.
  - 4) Site plan review shall be required for each phase of development.

- 5) All entrance, intersection, interconnection, roadway and multi-modal improvements required by DeIDOT shall be completed by the applicant in accordance with DeIDOT's requirements, or in accordance with any further modifications required by DeIDOT.
- 6) Recreational facilities and amenities shall be constructed and open to use by residents of the development within 2 years of the issuance of the first building permit.
- 7) The development shall be served as part of the West Rehoboth Sanitary Sewer District in accordance with Sussex County Engineering Department specifications and regulations.
- 8) The MR-RPC shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable regulations.
- 9) Stormwater management and erosion and sediment control facilities shall be constructed in accordance with applicable State and County requirements. These facilities shall be operated in a manner that is consistent with Best Management Practices (BMPs).
- 10) The interior street design shall be in accordance with or exceed Sussex County street design requirements and/or specifications. Street design shall include sidewalks on both sides of the streets and street lighting.
- 11) The applicant shall submit as part of the site plan review a landscape plan showing the proposed tree and shrub landscape design.
- 12) Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur from Monday through Saturday and only between the hours of 7:00 a.m. and 6:00 p.m.
- 13) The applicant shall cause to be formed a homeowners or condominium association to be responsible for the maintenance of the streets, roads, buffers, open spaces, stormwater management facilities and other common areas.
- 14) State wetlands shall not be included in any individual lots. Federal and State wetlands shall be maintained as non-disturbance areas, except where authorized by Federal or State permit.
- 15) No piers, docks, boat ramps, or other water related recreational facilities shall be permitted.
- 16) The proposed Senior Center, based on the testimony by the applicant and supporters of the project, shall be located on at least four (4) acres of land to the east of the connector road. It shall include parking in accordance with County requirements for a large-scale center such as the one proposed for a capacity of at least 500 people, as stated during the public hearing. This parking shall be shown on the Final Site Plan.

- 17) There shall be no commercial uses in the project, including the area adjacent to Sandalwood, with the limited exception of a sales facility for the duration of the development of the project and located within the project east of the connector road and not adjacent to Sandalwood.
- 18) No multi-family units shall be located in the area adjacent to the pond shown on the preliminary site plan between this project and Canal Corkran. Only townhouses or single family units shall be located in this area.
- 19) Any residential uses between Sandalwood and the Connector Road, also known as Hebron Road, shall be limited to single family lots

Motion carried 5 – 0.



June 8, 2004

Mr. Robert Stickles  
County Administrator  
Sussex County Council  
2 The Circle  
P.O. Box 589  
Georgetown, DE 19947

RE: C/Z#1538  
Fletcher Farm (lands of Rebay LLC)  
Rt. 271-Holland Glade Road

Dear Sussex County Council:

Having attended the Planning and Zoning meeting on May 6th and the County Council meeting on May 25, we are writing in opposition to Rebay LLC and its request C/Z #1538 currently before you to allow an RPC designation for these tracts of land. Witnessing the testimony of the supportive parties, we believe there are too many 'red-flags' for the Council to approve this development as proposed. As stated in my comments before the Council, the rumor is rampant that this property will be 'flipped' as soon as a RPC designation is granted. It is imperative that should you approve the RPC, many conditions need to be addressed and stipulated so that any future developer will have to abide by the promises and intent made before you by Rebay LLC.

**In our opinion, the land should remain MR with no RPC zoning for the following reasons:**

1) Allowing commercial use/development on the proposed access road connecting Holland Glade Road and West Rehoboth is not an acceptable use for this property. **Whether or not the proposed Senior Center is appropriate for this site remains to be seen.** According to news reports it appears that Mr. Hal Dukes is now proposing to give all of the land originally designated for commercial use to the Senior Center. **Is that possible since Mr. Dukes closed the door to any future input of his own or his supporters at the Council meeting on May 25th? How can the Council consider something that is NOT PART OF THE OFFICIAL RECORD?** Having witnessed Mr. Hal Dukes' statements before the Council that he saw no need to allow any more time for comments draws into question the 'legal' advice your counsel, Mr. Griffin may give to you, if his quotes in the local newspapers are correct. The Council specifically allowed ONLY OPPONENTS 15 days for additional comments. **If Mr. Dukes is indeed going to propose changes of this magnitude, then we believe that application process should begin again and a revised plan placed before the Council.** Mr. Hal Dukes specifically wanted the input from

the supporters of the project closed, that is why he handed the Council a list of suggested "commercial uses" before the meeting ended. If he indeed is "giving" as it now appears, the entire commercial area to the seniors that would be, I suppose, a positive result for them. It does not however, mitigate the other concerns the residents of the adjacent communities have with the RPC designation.

2) The proposed access road to Rehoboth Avenue also causes us much concern. We realize there are advantages to having such a road and it most likely will be built, but we also realize there are disadvantages which haven't been thoroughly discussed. The proposed access road will likely become a 'shortcut' for exiting the downtown Rehoboth area. The traffic burden this will place on Holland Glade Road, without any infrastructure upgrades for egress onto Route 1 will be enormous. In addition, the ability to enter into town from the access road will be hindered at the Church Street intersection due to the lack of a traffic signal enabling a left-hand turn onto Rehoboth. **We are not convinced that a traffic light will ever be approved for that intersection.** The ramifications a light would have at Church Street extend well onto Route 1. **We would strongly advise the Council to stipulate that the access road be a "local community road", with appropriate speed bumps and residential speed limits.** In light of the recently completed bike path and the danger that exists for those using this path to cross Holland Glade Road, speed bumps at those crossings/intersections would also be appropriate and highly suggested in the near future. Adding to the congestion on Holland Glade road is the Rehoboth Little League ballpark and a soon to be built Epworth Methodist Church. These both impact the area with additional traffic and congestion. **We do not believe the Council should support anything other than current MR zoning for this property until the Rehoboth Beach Entrance Project group and DelDOT have some plan in place and construction begins for easing congestion in the study area.**

3) The multi-family (townhome and condominium) housing the RPC designation permits, plus the possible increase in density is also a concern. The point was made at the Council meeting that single-family units on this land would most likely result in fewer units being able to be built. While we're not certain of the calculations, the Council should not support any increase in density from the current MR zoning. Rebay proposes 14 condominiums with 18 units in each building. We find this totally out of character with what now exists in the adjacent communities. We could support as Mr. Dukes stated at the meeting a "mirror image" of *Ponds Edge* type townhouses surrounding the pond/lake in Canal Corkran. **Again, this change would require him to re-submit his proposal and start the application process again.** The surrounding neighborhoods of Henlopen Keys, Sandalwood, The Glade, and most of Canal Corkran as well as the properties fronting Holland Glade Road are single-family dwellings, mostly built on one-half acres or more. **RPC zoning does not 'fit' with the surrounding communities and should not be supported by the Council.**

4) The state's Planning Coordination Office on January 10, 2004 issued their LUPA/PLUS remarks to the developers, with a follow up on May 3, 2004 to Mr. Lawrence Lank in Planning and Zoning for Sussex County. What we find incredible and disturbing is the following quote from Constance C. Holland about Canal Point's (Rebay LLC) follow-up to the DENREC recommendations, *"In the January letter, we provided five pages of comments (see attached) regarding natural areas, sediment and stormwater management, water supply, wetlands, TMDLs, nutrient management, soils, natural heritage and endangered species, ERES waters, and habitat. These comments included issues regarding the development, site plan suggestions, and regulatory comments. The Department of Natural Resources and Environmental Control has stated, through the LUPA process, that they have had no further contact with the developer regarding this site and no new site plans were provided. Therefore, our DNREC comments given in the January 10, 2004 letter stand as written."*

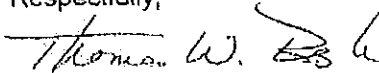
See: <http://www.state.de.us/planning/lupa/2004resp/04070404.pdf>

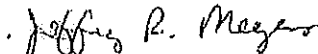
The DENREC comments and suggestions must be given due consideration and should be heavily weighed by the Council since this land is in an environmentally sensitive area. RPC communities can be designed to minimally impact the environment and preserve precious natural resources. The proposal by Rebay LLC does not conform to smart land use guidelines nor does it protect environmentally sensitive areas such as wetlands. Quoting from the January 10th PLUS, *"This parcel does contain natural areas listed on the State's Natural Areas Inventory and is within an identified State Resource Area. The entire project area lies within the Cape Henlopen State Resource Area. The forested buffers along the eastern and southern sides of the parcel are part of the Cape Henlopen Natural Area. The preliminary plan does not provide adequate buffering between the development and the adjacent wetland resources. According to the Statewide Wetlands Mapping Project GIS layer this site contains estuarine and palustrine emergent and palustrine forested wetlands. It is recommended that all lot lines be at least 100 feet from the wetlands on this site. Lots 6 to 9, 14 to 25, 57 - 62 and 68 to 77 all encroach too closely to the wetland resources on and adjacent to this site. The Department does not feel that forest should be destroyed to create storm water management ponds. This proposal shows two storm water management ponds in what are currently forested areas. The worse of the two is the small dogleg-shaped pond on the southeast side of the development, adjacent to an isolate palustrine emergent wetland. This wetland probably provides breeding habitat for several amphibian species as well as habitat for a number of other species of flora and fauna. It is recommended that DNREC's Division of Soil and Water Conservation and the Sussex Conservation District Office be consulted regarding the practicality of alternative stormwater management practices on this site."* We would suggest that the Council stipulate that **FOREST** may only be removed for dwelling structures, roads and driveways and **STIPULATE THAT ALL WETLAND BUFFERS BE AT LEAST 100 FEET** from any lot lines.

Lastly, while Mr. Dukes' proposal does not suggest using Henlopen Keys Roads, we do not know what plans might be put forth by a different developer in the future, should one emerge. **Therefore, we would like it to be stipulated by the Council that use of existing Henlopen Keys roads be prohibited.** We live in a very small, quiet community that has no desire to be adversely affected by traffic from an additional 600+ homes.

In summation, there is no doubt the Fletcher Farm will be developed. We believe there shouldn't be a rush on the Council's part to approve a development that is ill-conceived and not well thought out. How it is developed is critical for those of us who have homes adjacent to this property. Any community that is built there should fit in with the character of the surrounding area, not harm or impact the environment adversely and should have planned infrastructure (roads) in place before construction begins. **The proposal before you violates these standards.** We do not believe you should grant this (RPC) zoning designation due to the many issues raised. We trust you will take into consideration and contemplate the ramifications approving this development (as proposed) will have on the surrounding communities and Rehoboth itself for years to come. We thank you for your time and consideration.

Respectfully,

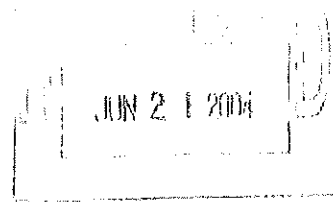
  
Thomas W. Resh

  
Jeffrey R. Meyers

Henlopen Keys  
2 Gary Avenue  
Rehoboth Beach, DE 19971

June 18, 2004

Mr. Robert Stickles  
County Administrator  
Sussex County Council  
2 The Circle  
P.O. Box 589  
Georgetown, DE 19947



RE: C/Z#1538 – Planning and Zoning Minutes  
Futcher Farm/Canal Point (lands of Rebay LLC)

Dear Sussex County Council:

We still are of the opinion that the plans for this development have changed "significantly" and require the Council to re-open the process back up to additional comments and input from both supporters and opponents of the plan. It is the only way to have a complete picture of what the development will look like when built. There is no need to RUSH the approval of this development. This is, without argue one of the last and finest properties near Rehoboth to be developed and it deserves serious study and responsible action by the Sussex County Council.

Below are our thoughts and opinions as they now stand after reviewing the recommendation and conditions of the Planning and Zoning Commission concerning the above proposal by Rebay/Canal Point. There are several specifications that we are in agreement with and a few that we think are fundamentally flawed and concern us greatly.

**We think the P& Z Commission was correct in:**

- Eliminating the "County Service Area" from the Final Site Plan.
- Lowering the multi-family density for the development.
- Excluding any State wetlands within individual lot lines.
- Excluding any commercial uses for the site.
- Moving the Senior Center to the East side of the connector road and insisting on adequate parking; however, there are related concerns listed below.

**The conditions, which concern us and we view as 'flawed' are:**

- # 2, which limits multi-family or townhouse construction within 300 feet of Henlopen Keys. What does that leave for the developer to put there? Single-family homes, parking lots (for the multi/townhouse portion) or the proposed Senior Center would be the only allowed uses. If you look at condition # 19 as it pertains to Sandalwood, the Commission expressly stated that only single-family homes could be placed next to Sandalwood.

**We are requesting the Council expressly state the same for Henlopen Keys.** Only single-family homes may be adjacent to the Henlopen Keys community.

- Of utmost concern is condition #5 which states: *"All entrance, intersection, **interconnection**, roadway and multi-modal improvements required by DelDOT shall be completed by the applicant in accordance with DelDOT's requirements, or in accordance with any further modifications required by DelDOT."* One of the main points in the LUPA notice from the State Planning Office on January 10<sup>th</sup> and the May 3<sup>rd</sup> follow-up letter was: *"The developer should consider **providing street connections to Henlopen Keys and stub street connections to adjacent lands that front on Holland Glade Road. If street connections are not feasible, bicycle and pedestrian connections should be considered.**"* **We adamantly OPPOSE any street connections to "Canal Point" and would like it to be stipulated by the Council that use of existing Henlopen Keys roads be PROHIBITED.** We live in a very small, quiet community that has no desire to be adversely affected by traffic from an additional 500-600+ homes.
- Condition # 16 which calls for moving the Senior Center to East of the connector road and calling for adequate parking is mostly well thought out, but we would go further and call for the Senior Center to be situated on at least 6 acres (the entire commercial acreage first sought by Rebay) AND be included inside the broad plan for *Canal Point*. We do not believe it should be placed near existing communities and ask that the Council condition an appropriate buffer, perhaps 400 to 500+ feet or more.
- We still are of the opinion that the multi-family units called for are out of character with our community and do not reflect what currently exists with in the surrounding communities. When you look at condition # 18, the Commission was clearly concerned about the multi-family structures called for around 'the pond' and conditioned the area as single family or townhome only. **We would like the Council to take the viewpoint that ONLY single-family (or townhouse\*) units are appropriate for this ENTIRE CANAL POINT DEVELOPMENT and stipulate that as a condition of approval.** Multi-family units of 18 units per building are NOT APPROPRIATE ANYWHERE on this entire parcel of land.

\*While we would like to maintain the current MR zoning and allow ONLY single-family homes, we realize the Council will probably approve at least the townhouse portion of the Rebay plan.

The Planning and Zoning Commission did not address the connector road through West Rehoboth, except to refer to DelDOT's requirements. The Council must discuss the adverse affect this road will have on the Holland Glade Road/Route 1 intersection, especially as another egress out of Rehoboth. **We ask the Council to stipulate that the access road be a "local community road", with**

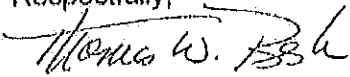
**appropriate speed bumps and residential speed limits.** In light of the recently completed bike path and the danger that exists for those using this path to cross Holland Glade Road along with the Rehoboth Little League ballpark traffic and a soon to be built Epworth Methodist Church, it would be unfathomable to allow this development to proceed without strict conditions being placed on this roadway.

**In summation we would like to reiterate:**

- We think the plans for this development have been altered significantly and the Council should re-open comments and input from supporters and opponents alike.
- We want **ONLY** single-family homes adjacent to our Henlopen Keys community.
- Henlopen Keys roadways should **NOT** be connected in any way to the Canal Point development.
- The Senior Center should be situated on at least six acres East of the Connector Road and be buffered from existing communities by an appropriate distance.
- If multi-family is inappropriate for the area around the pond as the Planning and Zoning Commission has suggested, it should be inappropriate for the entire parcel of land. Only single-family (or townhouse) units should be approved for this development.
- The Council should support the **LOWERED** density that Planning and Zoning recommended.
- The connector road must **ONLY** be used for local community traffic and not as another means of egress out of Rehoboth.

We thank you for your time and consideration of our views. We appreciate the opportunity to share our concerns.

Respectfully,

  
Thomas W. Resh

  
Jeffrey R. Meyers

Henlopen Keys  
2 Gary Avenue  
Rehoboth Beach, DE 19971

cc: Honorable George B. Cole  
Honorable Dale R. Dukes  
Honorable Finley B. Jones  
Honorable Vance Phillips  
Honorable Lynn J. Rogers

RE: C/Z #1538  
Futcher Farm (lands of Rebay LLC)  
Rt 271 Holland Glade Road

SANDALWOOD LLC  
**RECEIVED**  
JUN 09 2004  
PLANNING & ZONING  
COMM. OF SUSSEX COUNTY

Dear Sussex County Council:

As residents of the adjacent communities of Sandalwood and Henlopen Keys that will experience and live with the results of this new planned community we are not opposed to many of the items contained within the RPC application but are strongly opposed to several items.

We are not opposed to the multi family housing units or townhomes as located on the plans. We recognize the value of these increased areas of density in order to allow open space and the preservation of woods, wetlands, and natural habitats for wildlife.

We do oppose ANY use other than residential housing backing up to the existing residential communities of Henlopen Key and Sandalwood. We oppose commercial use of any kind in this complex. It's negative effects are not desired and it is not needed.

We recognize the inevitability of traffic caused by this new development. The potential development of the surrounding farms has always existed and the owner has that right. However, we did not anticipate a road connecting Holland Glade Road to Rehoboth and the large volume of traffic it will handle. Recognizing that in all likelihood this road will be approved we ask that the developer be required to enter into a perpetual agreement requiring a traffic signal at the intersection of Rehoboth Avenue Extended and Church Street when allowed. We ask that the developer be required to work with Deldot and the county to pursue the completion of a road behind the Tanger Outlets and Kmart to relieve traffic from the intersection of RT1, Holland Glade Road and inside Tanger Outlets. These roads are now under consideration by Deldot as part of the Rehoboth Beach Entrance Improvements program. A copy of the plan for this road is attached. As residents of the local communities we know that these intersections are already failing during the summer. Without an improved infrastructure the proposed connector road will only exacerbate an existing problem to unacceptable levels.

Deldot has recommended that the developer consider street connections to Henlopen Keys. The developer has not shown such connections on their plans and our communities are adamant in our objection to these ties ins.

We recognize the need of the senior citizen community for a new center and commend the developer for making this commitment to them. Based on the description of membership levels, meals desired to be served and other services provided we believe this 1.5 acre parcel to be grossly undersized and not appropriate backing up to existing residential housing. If the developer is committed to this use we do not oppose it placed at a more appropriate location within the development.

We also commend the developer for donating land to the county for an undefined future use such as a firestation or ambulance facility. It is again our opinion that any use such as this is not appropriate located immediately adjacent to residential housing. We do not find it inconsequential that the developer chose not to back these uses into their project. We do not feel that Sandalwood should be forced to suffer the negative effects of these noble special interest uses the developer has used to garner support for this application.



Our communities already suffer from the traffic, bright lights, and loudspeakers from the 14 acre Rehoboth Little League facility. Newspapers have now reported that the Epworth United Methodist Church is seeking to swap its ownership of that property for land along Holland Glade Road to build a facility to accommodate its large congregation that outgrew their existing facility after having sold off valuable property in the city. We submit to the county that our communities along Holland Glade Road not be the repository for groups that failed to provide for future expansion or have sold off valuable properties within the City of Rehoboth. The failure of parking facilities in the City of Rehoboth are not good reason to obligate Sussex County to rezone property for their nonconforming use alongside existing residential homes.

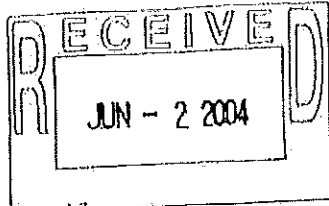
Having made our objections to all these items we now attempt to compromise and provide a potential solution to the needs of these groups and the rights of a property owner. We ask that the developer be required to keep intact the existing woods between Sandalwood and Canal Crossing Boulevard. The developer should be allowed to develop the remaining land alongside Canal Crossing Boulevard into 1/2 acre single family lots. These lots would be allowed density above the proposed 617 units asked for under the RPC. The proceeds of the sale of several of these lots should be donated to the Senior Center and the county so that they may adequately assess and meet their needs in locations appropriate to their uses. The proceeds of the remaining lots remain with the developer to offset costs of infrastructure improvements asked for and the loss of anticipated but not entitled revenue from commercial property. We hope that keeping the woods will help offset the Department of Natural Resources and Environmental Control concerns over lost forestation and wildlife habitat.

Finally we ask that the developer grant an easement to the State or Rehoboth Little League for a sign on the property at an appropriate location across from the entrance to alleviate traffic problems caused by this hidden entrance.

Signed:

Signature	Print name	Address	Community
<i>[Signature]</i>	Millburn Cerig Jr	1 Sandalwood Drive	Sandalwood
<i>[Signature]</i>	Minnie Wills		
<i>[Signature]</i>	Ann Rosta	2 Sandalwood	Sandalwood
<i>[Signature]</i>	Ann Miller	18 Sandalwood Dr	Sandalwood
<i>[Signature]</i>	Charles W. Miller	18 Sandalwood Rd	Sandalwood
<i>[Signature]</i>	HARRY HARRISON	20 SANDALWOOD DR	SANDALWOOD
<i>[Signature]</i>	CATHERINE ROSE	19 Sandalwood Dr	Sandalwood
<i>[Signature]</i>	Cathy Madden	19 Sandalwood Dr	Sandalwood
<i>[Signature]</i>	David J. Berilla	19 SANDALWOOD DR	Sandalwood
<i>[Signature]</i>	DENISE BERILLA	12 SANDALWOOD	Sandalwood
<i>[Signature]</i>	Paul Sube	25 Sandalwood	Sandalwood
<i>[Signature]</i>	JAMES E. HOMES	25 SANDALWOOD	SANDALWOOD
<i>[Signature]</i>	Stephen J. Schilly	24 SANDALWOOD DR.	SANDALWOOD
<i>[Signature]</i>	ROBERT RAHAMIN	24 SANDALWOOD	SANDALWOOD
<i>[Signature]</i>	Paul E. Mckley	26 SANDALWOOD DR	Sandalwood

Signature	Print name	Address	Community
<i>Tom Comer</i>	TOM COMER	30 SANDALWOOD DR.	SANDALWOOD
<i>Robert L. Robey</i>	ROBERT L. ROBEY	27 SANDALWOOD DR	SANDALWOOD
<i>Mary L. Robey</i>	MARY L. ROBEY	27 SANDALWOOD DR	SANDALWOOD
<i>Brenda Abell</i>	BRENDA ABELL	27 SANDALWOOD	IL
<i>Timothy Winters</i>	TIMOTHY WINTERS	37 SANDALWOOD DR	SANDALWOOD
<i>Debbie Couper</i>	Debbie COUPER	3 SANDALWOOD DR	SANDALWOOD
<i>Billy P. Couper</i>	Billy COUPER	IL	IL



18909 Holland Glade Road  
Rehoboth Beach, Delaware 19971  
May 31, 2004

Sussex County Council  
1 The Circle - P.O. Box 589  
Georgetown, Delaware 19947

Mr. Robert L. Stickels  
County Administrator and  
Council Members

RE: C/Z #1589 Futcher Farm  
Rebay LLC Canal Point...

\*\*\* RE: "WETLANDS" Stream/Ditch  
\*\*\* Fraser, Fisher, Fraser/Futche

Dear Mr. Stickels and Council Members:

My modest home is located directly fronting the former County Road #271, now named Holland Glade Road. Parcel #336 on Sussex County Tax Map: 3-34-13 with 5.29 acres. Directly beside this parcel, is my daughters home.

n/o Vivian A. F. Fisher - Parcel of 100' X 200' home and her adjoining Parcel #335.02 of 1.95 acres.

n/o William and Maria Fraser - Parcel #335.01 - 4.26 acres. (my son & fam.

\*\*\*  
\*\*\*  
\*\*\*  
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Now Directly in back of our 3 homes, we own PARCEL #335 of 8.47 acres... CONTIGUOUS to the FUTCHER FARM/REBAY LLC CANAL POINT.....

TO A POINT IN THE CENTER LINE OF A DITCH/STREAM... (another big concern) Needless to say where there is a stream - "WETLANDS" (swamp, bog, muck.) by nature occur. Some contribute significantly to ground water recharge, from environmental impact the flora and fauna, normal drainage and/or how related to flood control, erosion, etc... etc...

Also, our homes and the back parcel adjoining the Futcher Farm are all in beautiful woodlands.

Much of the wetlands of this State have been lost or despoiled by the unregulated dumping, filling, pushing and pulling. PROMISES AND JUST LOOK THE OTHER WAY... Too bad, shame on us to allow such to happen. I have attended both the Planning & Zoning meeting and County Council meeting and signed 2 petitions, Against the Commercial Strip and AN ordinance to amend the Comprehensive Zoning Map from MR Medium Density Residential District to a MR-RPC Contains 180.60 acres +/-...

In early 1950s BEFORE todays TRAFFIC, TRAFFIC..MY FAMILY & I gave RIGHT-OF-WAY of approximately 1,402 feet long by 13 feet deep, to have this former dirt/farm road black topped, by the State/Sussex County. On this same presently named Holland Glade Road. No cents or dollars traded hands above or below any table!!!

For the approximately 20 acres my immediate family and I own is heavily forested and intermixed with forested wetlands, adjoins the Futcher lands.

Thank you for your consideration and good works. Respectfully submitted,

*Patricia Rust Fraser*

Patricia Rust Fraser

Vivian A. Fisher  
18879 Holland Glade Rd.  
Rehoboth Beach, DE 19971

*Ms. Lawrence Lank*  
Sussex County Council  
#1 The Circle P.O. Box 589  
Georgetown, DE 19947

June 2, 2004

Mr. Stickles and Council Members

RE: Zone change for Rebay LLC Canal Point

I own property on Holland Glade road and am a part owner of property that is adjacent to the aforementioned property. I don't feel you should grant them the approval they seek. They tried to first get annexed into Rehoboth city limits, which thankfully was denied.

Please take into consideration that much of what has already been approved in the beach area has not been completed and the full potential of pitfalls and problems have not yet come to light. When problems are realized from all these developments who is going to be accountable to resolve the troubles? Four of the Council members seem to not care about the resort, so long as financial rewards are gained for the whole county and those members don't have to cope day to day with these frustrations.

How many more millions of gallons of water will the sewer plants be able to process? How much longer will the well systems continue to sustain all these property improvements? How much more traffic to spill onto clogged Route One? Also, bear in mind that everyone needs to go to the grocery store sometime, and ALL three grocery stores are on Route One and a fourth will soon accompany them once Safeway gets constructed.

Please deny approval of this projects request for increased density and its commercial strip, which is to skirt the delicate stream run off into the Lewes Rehoboth Canal, and destroy more forest area.

Sincerely,

*Vivian A. Fisher*  
Vivian A. Fisher

June 7, 2004

The Honorable George B. Cole  
Sussex County Council  
2 The Circle  
Georgetown, DE 19947

RECEIVED

JUN 09 2004

PLANNING & ZONING  
COMM. OF SUSSEX COUNTY

Dear Councilman Cole:

As a result of recent developments with respect to ReBay LLC's proposed development of Canal Point (C/Z #1538), I am writing as the representative of the Glade Property Owners' Association to request that the public record on this rezoning issue remains open, and that further new information be made available to the public for review and comment as it becomes available.

As you know, there has been considerable opposition to this rezoning request and the builder's intention to include multifamily dwellings and commercial elements within this project. It is our understanding that as of June 2, 2004, ReBay LLC has transferred the six commercial acres in Canal Point to the Cape Henlopen Senior Center, thereby eliminating any plans for commercial development in Canal Point. We believe that this is a step in the right direction; however, there are still a number of unresolved issues remaining with respect to this project.

On January 10, 2004, Constance Holland, Director, Office of State Planning Coordination submitted a 10-page letter to Mr. Lawrence Lank summarizing input from state agencies on the Preliminary Land Use Service for Canal Point (Attachment 1).

The letter pointed out several concerns about traffic, historic preservation, sediment and storm water management, natural buffers, water supply, wetlands, open space/habitat, TMDLs, nutrient management issues, natural heritage and endangered species, and ERES waters.

As of May 3, 2004, Ms. Holland, again in a letter to Lawrence Lank, indicated that ReBay LLC had not addressed these concerns (Attachment 2).

Moreover, increased traffic and congestion, along with resultant noise and pollution, have been foremost in the minds of nearby residents. Ms. Holland recognized in her January letter that with respect to traffic issues, that "The County should consider taking additional steps to receive input from the residents...recognizing that something more than the normal notification and public hearing process is appropriate."

Certainly, this is a reasonable consideration since DELDOT itself has made no determination on the type of infrastructure alignment that would be in place to support ReBay LLC's Canal Point Project. This is extremely important, because we can all see the current effects on Route 1 and its arteries as a result of a lack of appropriate planning in these matters.

The  
**Glade**

Property Owners Association, Inc.

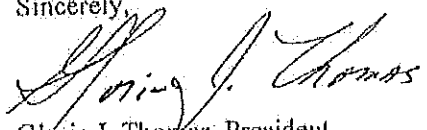
16 Glade Farm Drive  
302-227-6003

Rehoboth Beach, Delaware, 19971

Because the potential development is located in part of the greater Cape Henlopen Resources area, it is important to deliberate all possible ramifications of such building in terms of both human and environmental impacts.

There are too many matters that are as yet unresolved and issues that should be addressed publicly. Consequently, we respectfully request that the public record remain open on this ReBay LLC rezoning application until all appropriate information is presented to the public for review and comment.

Sincerely,



Gloria J. Thomas, President  
Glade Property Owners' Association

cc: Hon. Dale R. Dukes

RECEIVED

JUN 09 2004

PLANNING & ZONING  
COMM. OF SUSSEX COUNTY

RECEIVED

June 8, 2004

Sussex County Council  
2 The Circle  
Georgetown, DE 19947

JUN 09 2004

PLANNING & ZONING  
COMM. OF SUSSEX COUNTY

Gentlemen:

Thank you for the opportunity to respond to ReBay LLC's request for re-zoning (C/Z #1538) of the property known as the Fatcher Farm on Holland Glade Road.

Although ReBay no longer plans to put commercial enterprises within their residential project, we believe that, as currently designed, this multi-family housing project is not in the best interests of the community or the natural space and environment of the greater Cape Henlopen Resource area. The high density of the project will have a negative impact on an already congested area. Further, this type of multi-family house is out of character with the rural nature of the single-family home communities on Holland Glade Road.

The Council should not rush to judgment in approving this re-zoning request. There are still many unanswered questions and unresolved issues surrounding this project. These are briefly summarized here.

- ReBay LLC has not responded to the myriad questions and concerns of the Office of State Planning, which represents DelDOT, State Historic Preservation Office, Department of Agriculture, and DNREC. A 10-page letter, dated January 10, 2004, to Lawrence Lank, Constance C. Holland, lists their many concerns affecting the area. In her follow-up letter of May 4, 2004, also to Mr. Lank, she indicates that ReBay LLC has not responded to them. (Attachments 1 and 2.)

The concerns of these agencies are relevant and important for the greater Cape Henlopen Resource area. They deal with wetland areas and lots encroaching on them; riparian forests, TMDLs, and other outstanding issues.

- In February 2004, staff from the Delaware State Historical Site made a site visit to the Canal Point project, indicating that "...there are known Indian archaeological sites within the development area and the probability is high that there are additional sites that could provide important information about Indian inhabitants of what is now Delaware...the Indian occupation in this area began as early as 500 B.C.". In a letter dated March 8, 2004, Anne M. McCleave, asked the Canal Point Project Manager, W. Zachary Crouch, for additional access to the project area. (Attachment 3.) It is my understanding that as of two weeks ago, Ms. McCleave had not heard from ReBay and was going to make her request again.

There should be some thought and planning as to how these artifacts are to be preserved, not just merely recorded prior to plowing fields and removing trees.

Property Owners Association, Inc.

16 Glade Farm Drive  
302-227-6003

  
Rehoboth Beach, Delaware, 19971

- DeIDOT's letter dated May 4, 2004, to Mr. Lank discussed the Traffic Impact Study (TIS) for Canal Point. Del DOT's letter reiterated many of the concerns that local residents have about continued traffic congestion in the area. The "key improvements" in the TIS were not even supported by DeIDOT. DeIDOT recommended that the alternatives being considered as part of the Rehoboth Beach Area Improvement Study would be better solutions than the TIS recommendations. DeIDot is, in effect, recommending alignment with the forthcoming traffic solutions of their work groups. (Attachment 4.)
- In addition to requiring that all of DeIDot's recommendations be followed, prior to any issuance of building permits, the county should require that the developer fund all costs associated with a traffic signal at the intersection of Holland Glade Road and the northbound lanes of Route 1. In the event that DeIDOT constructs a road connecting Holland Glade Road to a controlled DE 1 intersection north of Holland Glade Road, these funds would be used for those road improvements and this traffic signal would not be constructed. (This signal could be timed to synchronize with the Route 1 signals at Shuttle Road and Rehoboth Outlets Seaside, resulting in minimal impact on northbound Route 1 traffic.

The density of this project will only add to traffic congestion. It is only common sense, that supporting infrastructures be in place before any development is approved. It is time to be sensible and put the "horse before the cart."

- As currently designed, the Canal Point project does not adhere to nor take into account conservation standards delineated by the Governor's Livable Delaware Initiative. This program emphasizes "livable" and "beautiful" communities, with more open space, conserving natural and scenic assets. This means designing around the central principle of land conservation. Canal Point is a typical conventional development plan. (Attachment 5.) Conservation design would do away with multi-family housing in favor of more open space, narrower streets, and small lot sizes with single-family cluster houses facing each other across community green space. In such planning, typically half or more of the buildable land is preserved as open space and is considered a density-neutral approach. (Edward T. McMahon, *Better Models for Development in Delaware*, March 2004, p.42.) Everyone benefits, including the developer.

The Council, at minimum, should ask ReBay LLC to re-think its design and come up with one to preserve the Cape Henlopen Resource area's natural resources and environment. The Council had the foresight to do this with respect to "The Retreat" (Love Creek) development built by Caldera and with the Robino development, "The Reserves of Nassau," near 5 Points, which affected Canary Creek. Both developments had environmental impacts and were out of character with the rural nature of the surrounding areas. To show his good will, the developer should provide an open space site design that would benefit everyone. (Attachment 5.)

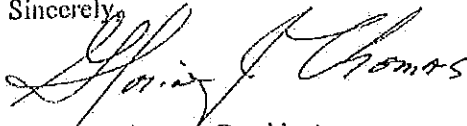


- There has been no discussion regarding the 4.93 acres that the developer plans to donate to the county and how it will be used. Will residents find out only too late that it will become a recycling center or some other eyesore?

The county needs to let the public know how it will use this land, if it accepts it, and give the public an opportunity to respond.

In conclusion, these are just a few reasons why it is premature to approve ReBay LLC's re-zoning application. As information becomes available regarding these unresolved issues, the public needs to be kept informed and afforded the opportunity to respond. This is only fair and reasonable. We believe that it would be unresponsive and irresponsible for the Council to consider approving ReBay LLC's re-zoning application at this time.

Sincerely,



Gloria J. Thomas, President  
Glade Property Owners' Association

Attachments - 5

RECEIVED

JUN 09 2004

PLANNING & ZONING  
COMM. OF SUSSEX COUNTY

RECEIVED

JUN 09 2004

PLANNING & ZONING  
COMM. OF SUSSEX COUNTY

RE: C/Z 1538  
Futcher Farm agreement between Rebay LLC  
Holland Glade Road

June 8, 2004

Dear Sussex County Council:

I am writing this letter to express my concern about the application that has been submitted by Rebay LLC. There has been much controversy over this application and to be perfectly honest, a lot of confusion as well.

At the last council meeting (May 25) Hal Dukes stated that he had no further documentation to submit, after submitting a haphazard list of "commercial proposals" to the Council. Although he had been encouraged to "think about this" before submitting, he concluded that he had and this was his final documentation. The Council closed any further submitted documentation for the support of this application and gave the opposition 15 days to submit documentation.

Now several local papers have articles claiming that Rebay is going to give more land to the seniors for the senior center and forego commercial property rights. What does this mean? Something certainly does not jive here. One might be led to believe that there are other motives behind this sudden generosity of Rebay. In fact, Rebay has not even settled on this property and rumor has it that they do not even intend to develop it but to "flip" it for a considerable profit --- if they get the rezoning they are requesting.

With that in mind, I urge the Council to deny any change in rezoning this property. This includes allowing townhomes and condos in this proposed development, not to mention the commercial requests. In the 3 developments that border Holland Glade Road (Sandalwood, Henlopen Keys, and the Glade) there are no such buildings. Only single family homes that are on at least 1/3 of an acre. There is plenty of open space and all are very desirable communities to live in.

Please also keep in mind the new bike and walking pathways that cross Holland Glade Road. I can not tell you how many times bikers and walkers go directly in front of traffic and endanger themselves. With the traffic that already exists on this road, an accident is likely to happen. With increased traffic from a new development, someone is going to be seriously injured, if not fatally.

Del Dot has proposed some ideal traffic solutions to route 1 that were very favorable to the community. One of the more favorable solutions is building a new road directly behind the outlets and Tomatoe Sunshine. This allows for 5 entry routes off of route one. This new road would be far away from the existing developments and the bike path. Traffic would certainly not be an issue. With this in mind, there does not need to be another connector road to Rehoboth by Rebay in this proposed development. Perhaps they could connect the proposed development into this road.

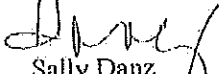
I urge the Council to seriously take in mind the consequences of permitting rezoning to allow condos, townhomes, and commercial entities in this proposed development. More traffic, noise, and safety concerns to a relatively peaceful area. Also, I urge Council to uphold any decisions that will be made to the "new developer" if this property is "flipped" and not developed by Rebay.

In conclusion, if Rebay is as committed to the senior center as they say they are, perhaps they would consider giving the "old" Ames building on route 1 to the seniors to be refurbished since they own this property outright. There is plenty of space and parking and access to emergency routes if needed. This seems to be a more reasonable solution then to embed it within an existing neighborhood.

Should this not be an option, then make stipulations that the Senior Center back up to the new proposed development and not to Sandalwood or Henlopen Keys. This seems only fair to the communities of Sandalwood and Henlopen Keys.

I trust that Council will make the right decision for the betterment of all of the communities involved—the Glade, Henlopen Keys, and Sandalwood. Please take the time needed to investigate this application further before making your final decision. Our communities are depending on you. Thank you for your time and consideration in this most important matter.

Sincerely,



Sally Danz  
50 Glade Circle East  
Rehoboth Beach, DE

Citizens Coalition, Inc.  
PO Box 56  
Nassau, DE 19969

May 6, 2004

Jack Allen, Chairman  
Sussex County Planning and Zoning Commission  
Georgetown, Delaware

Dear Chairman, Allen:

Citizens Coalition, Inc., a 501 (c) 3 non-profit watchdog organization incorporated in the State of Delaware, has represented many citizens mainly in Coastal Sussex County now going on ten years. The application before you, C/Z 1538, represents what we have seen over the years as a continuing exploitation of Coastal Sussex to the detriment of its citizens and taxpayers. As a result we oppose this application.

We oppose it for many reasons: First, we believe that in light of the issues before you and the size of the development and the cumulative impact it represents, DelDOT has recommended in its letter of May 4, 2004 that the applicant be completely responsible for access to this project. Further, DelDOT has rejected the developer's traffic engineers recommendation regarding any improvements on Route One. Because the applicant is responsible for access, nothing should go forward until the exact alignment of this recommended road is known. Second, we believe that any development in this environmentally sensitive area so close to our precious wetlands and tidal waters deserves more than a cookie cutter development that the developer has the nerve to call a Residential Planned Community or RPC.

This application is at best premature in its presentation and at worst shows a clear disregard for the governor's Livable Delaware program that promotes development favorable to the environment and the community. Its sheer magnitude on a rural road is clearly not sustainable development. Its cookie cutter, uncreative design shows open space not for the sake of good land use but for the sake of simply providing open space. ~~Where are the bike paths? Where are the sidewalks?~~ When are we going to see responsible land use in the form of cluster housing that makes open space a priority and major feature rather than an incidental amenity?

Because of the massive size of this development, we believe that the infrastructure must be in place before any development even begins. Further, a closer look at the site plan presents what we perceive as a serious encroachment of building lots on the surrounding wet lands. With 617 units on 142 acres or nearly 4.5 units per acre, this density is disturbingly high for development in so sensitive an area.

Allowing commercial use on this property is also not appropriate. This site is so close to a sea of commercial sites that provide an almost unlimited redundancy of choices of services, products and restaurants. We oppose any commercial use on this site.

Allocating land for a senior center is certainly a noble gesture but one we believe is inappropriate. The positive short-term effects of a new senior center will be far outweighed, in fact overwhelmed, by the long-term negative impact this development will have on the entire coastal community, the environment and our quality of life. In the nearly 40 years I've lived in Delaware I've witnessed time and time again, developers using clever ruses such as this to divide communities and place community factions

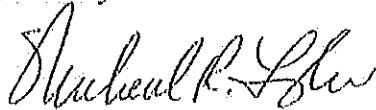
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P&Z Hearing

at odds. We must not be misled by yet another wolf in sheep's clothing. A senior center can be built in many other locations and have far less negative consequences than this development will create.

We ask you to defer taking any action on this zoning change at this time. Further, in view of the possible negative consequences this development could result in and our belief that this application is premature, we ask that you recommend denial of this site or at least reject it and recommend that the applicants reevaluate their plans.

In any case, we request that the public record remain open and that this application not go before County Council. We would like you to require the developer to review the plan, provide a time-line for completely upgrading the necessary infrastructure before any development begins and relocate all of the lots that encroach on the wetlands or provide a minimum 100 foot buffer. We think that if the developer makes a sincere commitment to create a conservation design, that he eliminates multifamily housing and commercial uses, provides permanent user-friendly open space and creates a community that is compatible with the surrounding single-family residences on Glade Road, the people of Coastal Sussex would derive long-term benefits by such prudent measures.

Sincerely,

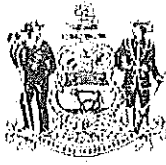
A handwritten signature in cursive script, appearing to read "Michael R. Tyler".

Michael R. Tyler, president  
Citizens Coalition, Inc.



BAIRD  
MANDALAS  
BROCKSTEDT LLP

# EXHIBIT B



STATE OF DELAWARE  
EXECUTIVE DEPARTMENT  
OFFICE OF  
STATE PLANNING COORDINATION

RECEIVED

MAY 10 2004

PLANNING & ZONING  
COMM. OF SUSSEX COUNTY

May 3, 2004

Mr. Lawrence Lank  
Sussex County Planning  
P.O. 417  
Georgetown, DE 19947

RE: LUPA 04-07-04-04; Rebay, LLC (Previously Canal Point)

Dear Mr. Lank:

The State has reviewed the proposed rezoning of 180.60 acres located on the southeast side of Holland Glade Road, 3,150 feet northeast of Route One and west of Rehoboth Beach from AR-1 to MR/RPC for the purpose of developing a 617 unit residential planned community. It should be noted that the State agencies originally commented on this project on January 10, 2004, after a December 17, 2004 PLUS meeting regarding this site. (copy attached)

In our response letter, several State agencies commented regarding this project. The purpose of this letter is to inform the County of any changes to our original comments.

Department of Transportation

In our January letter, DelDOT commented that the traffic impact study was in the process but they had no comments at that time. DelDOT expects to have the TIS completed during the first week of May, 2004, and will comment directly to the County. Until that study is completed and recommendations are made, DelDOT has noted that their comments are still valid, as follows:

- DelDOT recommended that the County make an extra effort to obtain input on this application from the residents of West Rehoboth.

THE DELAWARE OFFICE OF STATE PLANNING COORDINATION  
540 S. DUPONT HWY. • THOMAS COLLINS BUILDING, THIRD FLOOR • DOVER, DE 19901  
PHONE: (302) 739-3090 • FAX: (302) 739-6958 • WWW.STATE.DE.US/PLANNING

- DelDOT asked that the developer consider providing street connections to Henlopen Keys and stub streets to adjacent lands that front on Holland Glade Road. The State is unsure if the developer has included this in his site plan due to the fact that they have not a revised plan.

#### **State Historic Preservation**

The State Historic Preservation Office has been in contact with the developer to visit the site and determine the archaeological sites on the property that are known to exist. They met, on site on February 24, 2004 but because of ground conditions and overgrowth, the sites could not be located. The SHPO followed up with a letter requesting additional access to the site once it had been plowed; however, the developer responded that they did not plan to plow the fields. The SHPO responded that they would like Dan Griffith, Director of Historic and Cultural Affairs, to visit the site, as he was one of the archeologists who surveyed the property in the 1970s when the known sites were studied.

The State Historic Preservation Office would like to visit the project site before any construction begins so that they can document the archeological sites before they are potentially harmed. The State asks that the County require the developer to have these sites marked before development of the property.

#### **Department of Agriculture**

In January the Department of Agriculture recommended a forest mitigation plan to preserve trees during the construction process when possible and allow for improved home design and construction to enhance the resource. Further, the developer was encouraged to provide a diverse landscape plan that includes native trees and shrubs and the DDA extended its services to assist the developer with the project.

It is unclear at this time if the developer has planned a forest mitigation plan; however, we would still recommend that it be done.

#### **Department of Natural Resources and Environmental Control**

In the January letter, we provided five pages of comments (see attached) regarding natural areas, sediment and stormwater management, water supply, wetlands, TMDLs, nutrient management, soils, natural heritage and endangered species, ERES waters, and habitat. These comments included issues regarding the development, site plan suggestions, and regulatory comments.

The Department of Natural Resources and Environmental Control has stated, through the LUPA process, that they have had no further contact with the developer regarding this site and no new site plans were provided. Therefore, our DNREC comments given in the January 10, 2004 letter stand as written.



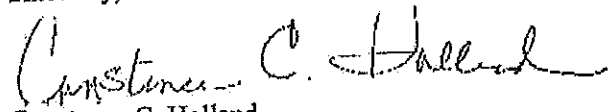
LUPA 04-07-04-04  
Rebay, LLC  
Page 3 of 3

State Fire Marshals Office comments that were given in January were advisory comments regarding what information would be needed on the final submittals. These comments also still stand.

Thank you for the opportunity to review this rezoning proposal. We encourage the County to consider the comments given to the developer through the PLUS process. Once a decision is reached regarding this proposal, please contact this office so that our records may be updated reflecting your decision.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "Constance C. Holland". The signature is written in black ink and is positioned above the printed name and title.

Constance C. Holland  
Director



STATE OF DELAWARE  
EXECUTIVE DEPARTMENT  
OFFICE OF  
STATE PLANNING COORDINATION

January 10, 2004

Mr. Zachary Crouch  
Project Manager  
Davis, Bowen & Friedel, Inc.  
23 North Walnut Street  
Milford, DE 19963

RE: Preliminary Land Use Service (PLUS) – Canal Point

Dear Mr. Crouch:

Thank you for meeting with State agency representatives on December 17, 2003 to discuss the Canal Point project. This project is the rezoning and subdivision of a 180.6 acre assemblage of parcels on the southeast side of Holland Glade Road, northwest of Rehoboth Beach to create a residential development. It is our understanding that 283 single family detached houses, 82 townhouses and 252 apartments are planned for the site.

Please note that changes to the plan, other than those suggested in this letter, could result in additional comments from the State. Additionally, these comments reflect only issues that are the responsibility of the State agencies represented at the meeting. The developers will also need to comply with any Federal, State and local regulations regarding this property. We also note that, if annexed, Sussex County is the governing authority over this land; the developers will need to comply with any and all regulations/restrictions set forth by the County.

State Agency comments are as follows:

**Department of Transportation – Contact: Bill Brockenbrough 760-2166**

Contrary to the Request for Review information, the traffic impact study (TIS) for this development has not been submitted yet although DeDOT stated they understand that it is in process. When they have reviewed it, they anticipate commenting to Sussex County on their findings and recommendations.

Hebron Road presently serves as the only access to a low-income neighborhood known as West Rehoboth. Most of the developed properties are rental housing owned by people who live elsewhere. Because it is relatively isolated, this neighborhood has continued to exist despite rising real estate prices in the surrounding area. While the TIS will address traffic issues associated with the effects of connecting Hebron Road to Canal Crossing Boulevard, there are also social and economic issues associated with such a connection. The County should consider taking additional steps to receive input from the residents of West Rehoboth, recognizing that something more than the normal notification and public hearing process is appropriate. Additional measures could include a hearing at a location in or near West Rehoboth and local postings of the hearing notices.

The developer should consider providing street connections to Henlopen Keys and stub street connections to adjacent lands that front on Holland Glade Road. If street connections are not feasible, bicycle and pedestrian connections should be considered.

**State Historic Preservation Office (SHPO) – Contact: Anne McCleave 739-5685**

There is a farm complex consisting of a house and outbuildings on the proposed development parcels. There are also known archaeological sites (at least 8) throughout the development area and a high probability for other historic and prehistoric archaeological sites. The applicant or developer should contact Anne McCleave to allow SHPO to document the historic buildings before they are demolished and to set up a meeting with the archaeologists in their office to discuss ways to avoid or minimize any effects to the archaeological sites.

If there is any federal involvement, in the form of licenses, permits, or funds, the federal agency must comply with Section 106 of the National Historic Preservation Act and consider any effects the project will have on historic resources. The applicants should also be aware of the Delaware Unmarked Human Remains Act (7 Del. Code 54) and contact Faye Stocum in the SHPO office if any human remains are discovered.

**Department of Agriculture – Contact: Bryan Hall 739-4811**

No forest buffer would be required for this site to allow for separation of active agricultural activities. However, the site is heavily forested and inter mixed with forested wetlands. The developer should consider a forest mitigation plan to preserve trees during the construction process when possible and allow for improved home design and construction to enhance the resource. I would encourage the developer to consider connectivity of the green infrastructure to allow for additional recreational opportunities and potential tie-ins to other future development sites. The developer should consider a diverse landscape plan one that includes native trees and shrubs. Finally, the DE Forest service extends its services to assist the developer with this project.

**Department of Natural Resources and Environmental Control**

**Sediment and Stormwater Management – 856-7219**

A detailed sediment and stormwater plan will be required prior to any land disturbing activity taking place on the site. The plan review and approval as well as construction inspection will be coordinated through Sussex Conservation District. Contact Jessica Watson, Program Manager, for details regarding submittal requirements and fees.

It is strongly recommended contacting Sussex Conservation District to schedule a pre-application meeting to discuss the sediment and erosion control and stormwater management components of the plan. The site topography, soils mapping, pre and post development runoff, and proposed method(s) and location(s) of stormwater management should be brought to the meeting for discussion.

A Notice of Intent (NOI) for Stormwater Discharges Associated with Construction Activity must be submitted to DNREC Division of Soil and Water Conservation along with the \$195 NOI fee prior to plan approval.

Applying practices to mimic the pre development hydrology on the site, promote recharge, maximize the use of existing natural features on the site, and limit the reliance on structural stormwater components, such as maintaining open spaces, should be considered in the overall design of the project as a stormwater management technique.

Each stormwater management facility should have an adequate outlet for release of stormwater. Any drainage conveyed onto this site from neighboring properties must be adequately conveyed through the site to the discharge point without interruption.

A Certified Construction Reviewer (CCR) will be required for the site during construction. Contact Sussex Conservation District for details regarding the CCR requirement.

**Natural Areas - 739-3423**

This parcel does contain natural areas listed on the State's Natural Areas Inventory and is within an identified State Resource Area. The entire project area lies within the Cape Henlopen State Resource Area. The forested buffers along the eastern and southern sides of the parcel are part of the Cape Henlopen Natural Area.

The preliminary plan does not provide adequate buffering between the development and the adjacent wetland resources. According to the Statewide Wetlands Mapping Project GIS layer this site contains estuarine and palustrine emergent and palustrine forested wetlands. It is recommended that all lot lines be at least 100 feet from the wetlands on this site. Lots 6 to 9, 14 to 25, 57 – 62 and 68 to 77 all encroach too closely to the wetland resources on and adjacent to this site.

The Department does not feel that forest should be destroyed to create storm water management ponds. This proposal shows two storm water management ponds in what are currently forested areas. The worse of the two is the small dogleg-shaped pond on the southeast side of the development, adjacent to an isolate palustrine emergent wetland. This wetland probably provides breeding habitat for several amphibian species as well as habitat for a number of other species of flora and fauna. It is recommended that DNREC's Division of Soil and Water Conservation and the Sussex Conservation District Office be consulted regarding the practicality of alternative stormwater management practices on this site.

#### **Water Supply - 739-3665**

The project information sheets state water will be provided to the project by City of Rehoboth Beach via a central water system. Our records indicate that the project is located within the public water service area granted to City of Rehoboth Beach under Certificate of Public Convenience and Necessity 99-CPCN-04.

Should dewatering points be needed during any phase of construction, a dewatering well construction permit must be obtained from the Water Supply Section prior to construction of the well points. In addition, a water allocation permit will be needed if the pumping rate will exceed 50,000 gallons per day at any time during operation.

All well permit applications must be prepared and signed by licensed water well contractors, and only licensed well drillers may construct the wells. Please factor in the necessary time for processing the well permit applications into the construction schedule. Dewatering well permit applications typically take approximately four weeks to process, which allows the necessary time for technical review and advertising.

#### **Wetlands – 739-4590**

A wetland delineation should be conducted and verified. It appears that impacts to tidal wetlands may occur due to a trail system located internally within the development. Impacts to waters of the U.S., including impacts to "isolated wetlands" are protected and regulated by the U.S. Army Corps of Engineers (USACE). Tidal wetlands and subaqueous land impacts are regulated by the State Division of Water Resources, Wetlands and Subaqueous Land Section. Individual permits and certain Nationwide Permits from the USACE also require 401 Water Quality Certification from the Wetland and Subaqueous Land Section and Coastal Zone Federal Consistency Certification from the Division of Soil and Water Conservation, Delaware Coastal Programs Section. Each of these certifications represents a separate permitting process. To find out more about permitting requirements, the applicant is encouraged to attend a Joint Permit Process Meeting. These meetings are held monthly and are attended by federal and state resource agencies responsible for wetland permitting.

The current plan also shows impacts to wetlands resulting from stormwater facility construction near the existing pond. Stormwater facilities must be relocated to avoid this wetland and provide appropriate buffers. The developer is also strongly encouraged to move stormwater management facilities outside of forested areas to minimize forest losses. Construction of alternative stormwater facilities would further allow the developer to redesign portions of the project, moving some lots away from waterbodies, increasing buffer widths, preserving a larger portion of forest while maintaining the planned number of lots.

Buffers of 100' or more from waterbodies and wetlands should be employed throughout the site for water quality and habitat benefits. The buffers shown in the site plans in most cases do not meet this criterion, particularly in the northwestern and southern portions of the project site. Further, lot lines should not include any portion of wetlands or their buffer areas. Homeowners are often unaware of laws protecting wetlands and proper permitting channels and unknowingly fill or degrade wetlands within their property boundaries, contributing to cumulative wetland loss. The developers should also strongly consider putting riparian buffers and conservation areas into a permanent conservation easement and clearly marking their boundaries to prevent encroachment.

#### **Habitat - 739-3423**

The open space and perimeters could be better designed to reduce fragmentation by connecting islands and perimeter habitats with travel corridors for wildlife.

Storm water management facilities could be designed to provide aquatic habitats for biodiversity. Large shallow water areas are preferable to small deep ponds.

Buffer strips at least 100 feet wide around storm water facilities and the perimeter of developments will provide habitats for wildlife. These buffer strips should be planted with vegetation that is wildlife friendly and reduce maintenance costs for homeowner associations.

This project represents a major loss of forested wetlands and increases fragmentation of protected state lands in the area. It is, therefore, particularly important that the proposed islands of open space be connected to each other and to the perimeter of the development by travel corridors. Wide buffers of warm season grasses and shrubs around the perimeter of the development are very important.

#### **TMDLs – 739-4590**

With the adoption of Total Maximum Daily Loads (TMDLs) as a “nutrient-runoff-mitigation strategy” for reducing nutrients in the Inland Bays Watershed, reduction of nitrogen and phosphorus loading will be mandatory. A TMDL is the maximum level of pollution allowed for a given pollutant below which a “water quality limited waterbody” can assimilate and still meet water quality standards to the extent necessary to support

use goals such as, swimming, fishing, drinking water and shell fish harvesting. Although TMDLs are authorized under federal code, states are charged with developing and implementing standards to support those desired use goals. The Jurisdictional authority for attaining these use goals will fall under the auspices of Section 11.5 of the State of Delaware's Surface Water Quality Standards (as amended August 11, 1999), and will be achieved via nutrient reductions referred to as "pollution control strategies."

#### **Nutrient Management Issues 739-4590**

Most of the soils occurring on the Southern Coastal Plains of Delaware have sandy surface and/or subsurface horizons. Such soils have rapid permeabilities with little or no phosphorus/nitrogen adsorption capacity; therefore, increased nutrient pollutant loads from such inputs will likely leach into receiving waters of the watershed. This process is further intensified in those soils containing shallow water tables.

The developer is encouraged to select BMPs that provide nutrient control for stormwater and open spaces. Vegetative buffers that require little to no management are recommended. A riparian corridor along streams that is outside of the individual lot lines is encouraged and should be managed through the civic association. Education of the landowners as to proper lawn and landscaping management should be made part of each lot transfer.

Nutrient reductions prescribed under TMDLs are assigned on basis of water quality concerns – that is, the those regions deemed to be of greatest environmental concern will require correspondingly higher levels of nutrient reduction than those regions deemed less environmentally sensitive. In this watershed, these regions are demarcated as high and low reduction zones. The high reduction zone corresponds to the western portion of the watershed, and requires a reduction of nitrogen and phosphorus by 85 and 65 percent, respectively. The low reduction zone corresponds to the eastern portion of the watershed, and requires a reduction of nitrogen and phosphorus by 40 percent.

#### **This project is proposed within the low nutrient reduction zone.**

In order for the applicant to verify compliance with the TMDL mandate, a full nutrient accounting process known as a nutrient budget should be prepared. The developer/consultant should contact Lyle Jones (302-739-4590) in the Department's Watershed Assessment Section for further information regarding the acceptable protocol for calculating a nutrient budget.

It should also be noted that a significant portion of subject parcel ( $\approx 1/3$  to  $1/2$  of parcel) is heavily forested. Forested lands have been consistently shown to be far more effective agents for adsorbing nutrients and other pollutants. Removal of forest cover will almost certainly increase pollutant loading into the Inland Bays and make it more difficult for Delaware to comply with TMDL nutrient load reduction requirements. **From the information presented at the Request for Review meeting on December 17, 2003,**

and the Nutrient Protocol beta Model, Canal Point as presented would increase the nutrient load to the Inlands Bays Watershed.

### Soils

According to the recent soil survey update, the soils in the vicinity of the proposed construction are mapped as Greenwich and Downer. Both Downer and Greenwich are well-drained upland soils. Delineated wetlands are outside the proposed construction area.

### Natural Heritage and Endangered Species

A review of our database indicates that the following rare, threatened or endangered species and/or unique natural communities may be found at or adjacent to the project site:

Scientific Name	Common Name	Taxon	State Rank	State Status	Global Rank	Federal Status
<i>Callophrys irus</i>	Frosted elfin	Butterfly	S1	E	G3	
<i>Libytheana carinenta</i>	American snout	Butterfly	SH		G5	

The Frosted elfin is not only state-rare; it is listed as State Endangered and is considered Globally Rare (fewer than 100 known locations remaining worldwide). Records for these species at or near this site are now considered historical (last observed >20 years old), primarily because we have never searched the area where the specimens were reportedly found. Due to the lack of specific information associated with the specimens (from University of Delaware specimen collection), we are uncertain precisely where these species were observed. Frosted elfin larvae feed exclusively on a state-rare plant (*Lupinus perennis*; purple lupine), which typically grows in dry upland forests with open canopy sunny or partial shade conditions or right-of-ways. Division biologists have never visited this property to search for the host plant or adult butterflies. **The Natural Heritage Program has requested permission to evaluate whether habitat for these species, particularly Frosted elfin and its foodplant, exists on this site.** Surveys cannot be conducted until the spring; more detailed information on survey timing will be provided.

The loss of upland forest is a concern given the close proximity to protected lands owned by the Division of Parks and Recreation. Although the applicant indicates on the form that "all upland woods will remain...", it appears that only trees may be left to stand with houses in most of the understory. This is no longer forest habitat, but instead is wooded suburban landscaping. The wooded lots will not serve as habitat equivalent to an intact, undisturbed forest. Though the area is nearly surrounded by development and, except for protected State Park land, essentially fragmented from larger contiguous blocks of forest, coastal habitats (including forest and shrub-scrub) are very important stopover sites for birds that follow coastlines during migration<sup>1</sup>. This project, if completed as designed,



will result in loss of forest habitat for many wildlife species. Impacts may be lessened to a small degree by preserving and maintaining forest-like habitat completely surrounding homes, including understory shrub and herb layers typical of surrounding forest habitats. The developer is encouraged to explore ways to ensure that community residents will maintain their properties as native woodland, rather than manicured landscaping. The north side of Rehoboth Beach should be evaluated as an example of how woodland habitat can surround homes and lend character to the community.

<sup>1</sup> Mabey, S.E., J. McCann, L.J. Niles, C. Bartlett, P. Kerlinger. 1993. The neotropical migratory songbird coastal corridor study: Final report. A report to the Virginia Department of Environmental Quality to the National Oceanic and Atmospheric Administration's Office of Ocean and Coastal Resource Management pursuant to NOAA Award No. NA90AA-H-CZ839. 72 pp.

### **ERES Waters**

The Inland Bays and its tributaries are designated as waters having Exceptional Recreational or Ecological Significance (ERES). ERES waters are recognized as special assets of the State, and shall be protected and/ or restored, to the maximum extent practicable, to their natural condition. Provisions in Section 11.5 of Delaware's "Surface Water Quality Standards" (as amended August 11, 1999), specify that all designated ERES waters and receiving tributaries develop a "pollution control strategy" to reduce non-point sources of nutrient runoff through implementation of Best Management Practices (BMPs). Best Management Practices as defined in subsection 11.5(e) of this section, expressly authorizes the Department to provide standards for controlling the addition of pollutants and reducing them to the greatest degree practicable, or where attainable, a standard requiring no discharge of pollutants.

### **State Fire Marshals Office 856-5298**

At the time of formal submittal, the applicant shall provide; completed application, fee, and three sets of plans depicting the following in accordance with the Delaware State Fire Prevention Regulation (DSFPR):

- a. **Fire Protection Water Requirements:**
  - Water distribution system capable of delivering at least 1000 gpm for 1-hour duration, at 20-psi residual pressure is required. Fire hydrants with 800 feet spacing on centers.
  - Where a water distribution system is proposed for (business/educational/assembly/healthcare/multi-family) sites, the infrastructure for fire protection water shall be provided, including the size of water mains for fire hydrants and sprinkler systems.
  - Where a water distribution system is proposed for single family dwellings it shall be capable of delivering at least 500 gpm for 1-hour duration, at

20-psi residual pressure. Fire hydrants with 1000 feet spacing on centers are required.

- Where a water distribution system is proposed for townhouse type dwellings it shall be capable of delivering at least 1000 gpm for 1-hour duration, at 20-psi residual pressure. Fire hydrants with 800 feet spacing on centers are required.

b. **Fire Protection Features:**

- All structures over 10,000 Sq. Ft. aggregate will require automatic sprinkler protection installed.
- Buildings greater than 10,000 sq.ft., 3-stories of more or over 35 feet, or classified as High Hazard, are required to meet fire lane marking requirements.
- Show Fire Department Connection location (Must be within 300 feet of fire hydrant), and detail as shown in the DSFPR.
- Show Fire Lanes and Sign Detail as shown in DSFPR

c. **Accessibility:**

- All premises which the fire department may be called upon to protect in case of fire, and which are not readily accessible from public roads, shall be provided with suitable gates and access roads, and fire lanes so that all buildings on the premises are accessible to fire apparatus. This means that the access road to the subdivision from Hebron St. must be constructed so fire department apparatus may negotiate it.
- Fire department access shall be provided in such a manner so that fire apparatus will be able to locate within 100 ft. of the front door.
- Any dead end road more than 300 feet in length shall be provided with a turn-around or cul-de-sac arranged such that fire apparatus will be able to turn around by making not more than one backing maneuver. The minimum paved radius of the cul-de-sac shall be 38 feet. The dimensions of the cul-de-sac or turn-around shall be shown on the final plans. Also, please be advised that parking is prohibited in the cul-de-sac or turn around.
- If the use of speed bumps or other methods of traffic speed reduction must be in accordance with Department of Transportation requirements.

d. **Gas Piping and System Information**

- Provide type of fuel proposed, and show locations of bulk containers on plan.

d. **Required Notes:**

- Provide a note on the final plans submitted for review to read " All fire lanes, fire hydrants, and fire department connections shall be marked in accordance with the Delaware State Fire Prevention Regulations"
- Proposed Use

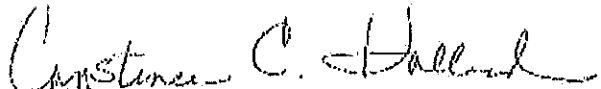
PLUS Meeting  
Canal Point  
Page 10 of 10

- Alpha or Numerical Labels for each building/unit for sites with multiple buildings/units
- Square footage of each structure (Total of all Floors)
- National Fire Protection Association (NFPA) Construction Type
- Maximum Height of Buildings (including number of stories)
- Note indicating if building is to be sprinklered
- Name of Water Provider
- Letter from Water Provider approving the system layout
- Provide Lock Box Note (as detailed in DSFPR) if Building is to be sprinklered
- Provide Road Names, even for County Roads

Preliminary meetings with fire protection specialists are encouraged prior to formal submittal. Please call for appointment. Applications and brochures can be downloaded from our website: [www.delawarestatefiremarshal.com](http://www.delawarestatefiremarshal.com), technical services link, plan review, applications or brochures.

Again, thank you for meeting with State agencies regarding this project. If you have any questions, please contact me at 302-739-3090.

Sincerely,

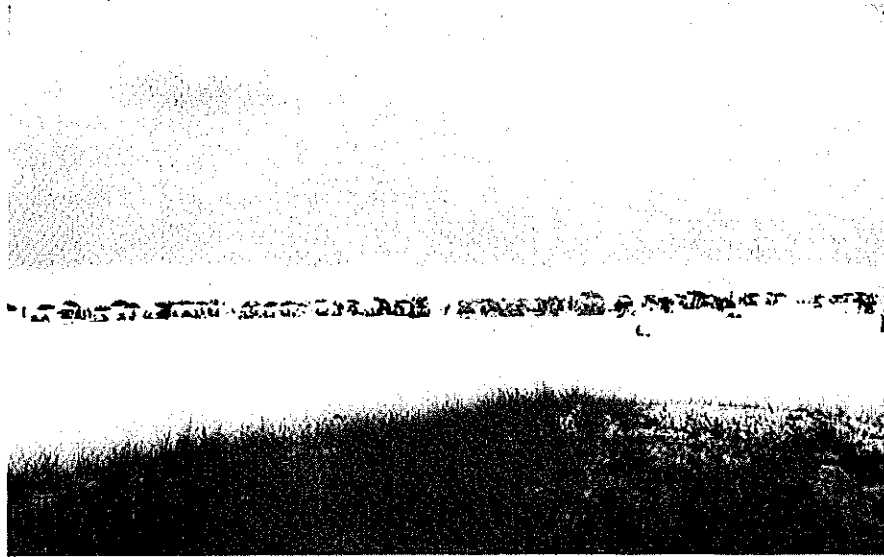
  
Constance C. Holland, AICP  
Director

CC: Lawrence Lank



BAIRD  
MANDALAS  
BROCKSTEDT LLP

# EXHIBIT C



*A portion of the magnificent Atlantic beach adjacent to Henlopen Acres*

## HENLOPEN ACRES

*a Seashore Residential Park at Rehoboth Beach, Delaware*



*A Clean, Wide, Sandy Beach on the Atlantic Ocean  
Ideal Inland Waters for Sail & Motor Boating  
Easy Access by Highways, Railways & Waterways  
Nearest Ocean Resort to Washington & Baltimore*



*Air View of Henlopen Acres with Rehoboth Beach and Bay in the background*

## WHY HENLOPEN ACRES?

**H**ENLOPEN ACRES offers you a magnificent Atlantic beach, stately pine woods, smooth inland waters for sailing and fishing, easily accessible over splendid highways, railways and waterways.

### LOCATION

Henlopen Acres adjoins the famous "Pines Section" of Rehoboth Beach, Delaware, one of the oldest and most favored of seashore recreation colonies. A ten-minute walk to the center of town.

### TERRAIN

156 acres of rolling green fields, fragrant pine woods, dunes, beach, pri-



*A recently completed Colonial farmhouse home*

vate roads, and waterways. A harmonious lay-out reinforcing the natural charm of each plot.

### CLEAN ATLANTIC SURF

An unusually wide white sandy beach fronts Henlopen Acres for more than a thousand feet and extends for miles on either side.

### INLAND WATERWAYS

Sheltered inland waterways—more than a mile of government canal and private yacht basins—border especially desirable plots.

### PLOTS AND HOUSES

Plots averaging six-tenths of an acre, laid out to give houses maximum view, trees, and breeze. Houses of approved appearance and location, but not subject to a minimum cost limit.

### MODERATE CLIMATE

Cool summers and mild winters. All-year use of your Henlopen Acres recreation home possible. Balsam air,

salt breezes, and golden sunshine refresh tired bodies and minds.

#### LUXURIANT NATURE

Finest fresh fruits and vegetables from adjoining countryside, and delicious sea foods. Pines, oaks, cedars, dogwood, holly, and bayberry. A natural bird haven,—300 varieties including game birds.

#### SPORTS

Surf and still water bathing. Sail and motor boating in Rehoboth Bay. Private anchorage in our own yacht basin. Salt and fresh water fishing. Crabbing. Five miles of beautiful private bridle paths through woods and fields and over dunes. Horses available at Henlopen Acres Hunt and Riding Club. Golf and tennis at the Rehoboth Country Club. Canoeing, shooting, flying, and other diversions. Plots reserved for Henlopen Acres Beach and Yacht Clubs.

#### HEALTHFUL ENVIRONMENT

Skilled medical and hospital facilities. Approved milk and water supply. Modern hotels, boarding houses, restaurants, and tea-rooms. Wide porched cottages for rent in town. Mosquito elimination program under state au-



*A Cape Cod Cottage recently sold*

thorities. An ideal playground for children. Invigorating and restful for adults. Free from city noise and dirt.

#### SOCIAL LIFE

The finest class of people from many sections of the United States, among whom one will find congenial, charming friends. Churches, musicals, art exhibits, beach parties, and the movies. Riding, dancing, and academic instructors available.

#### RESTRICTIONS

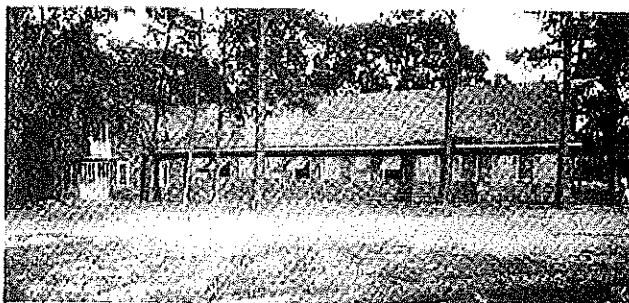
Every essential restriction permanently protects your investment in a residence at Henlopen Acres.

#### PRICES

Lower prices in proportion to size and protection offered than for any other seacoast development. Quotations on application. Title guaranteed by the Equitable Trust Company of Wilmington, Delaware.



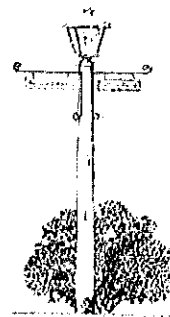
*This gracious home, recalling the pillared plantation mansion, is now ready*



*Henlopen Acres Hunt and Riding Club....this modern stable is a popular center for all equestrian sportsmen*



*The Homestead...built about 1743...restored & enlarged 1930...has the quiet charm found in early Colonial work*



## COMPARE THESE FACTS

### *Sizes and Prices*

Plot frontages . . . . . 110 ft. to 300 ft.  
 average 150 ft.  
 Plot depths . . . . . 90 ft. to 207 ft.  
 average 166 ft.  
 Plot areas . . . . . 14800 to 35060 sq. ft.  
 average 25700 sq. ft. = .6 acre.  
 Plot prices . . . . . \$900 to \$5346  
 average \$2964.

### *Distances*

From Henlopen Acres to  
 Wilmington, Delaware . . . . . 85 m.  
 Washington, D. C. . . . . 113 m.  
 via Annapolis-Matapeake Ferry.  
 Baltimore, Md. . . . . 109 m.  
 via Annapolis-Matapeake Ferry.  
 Philadelphia, Pa. . . . . 112 m.  
 New York City . . . . . 220 m.  
 via Pennsville-New Castle Ferry.



For further information about Henlopen Acres  
 send the enclosed stamped card with your  
 name and address to:

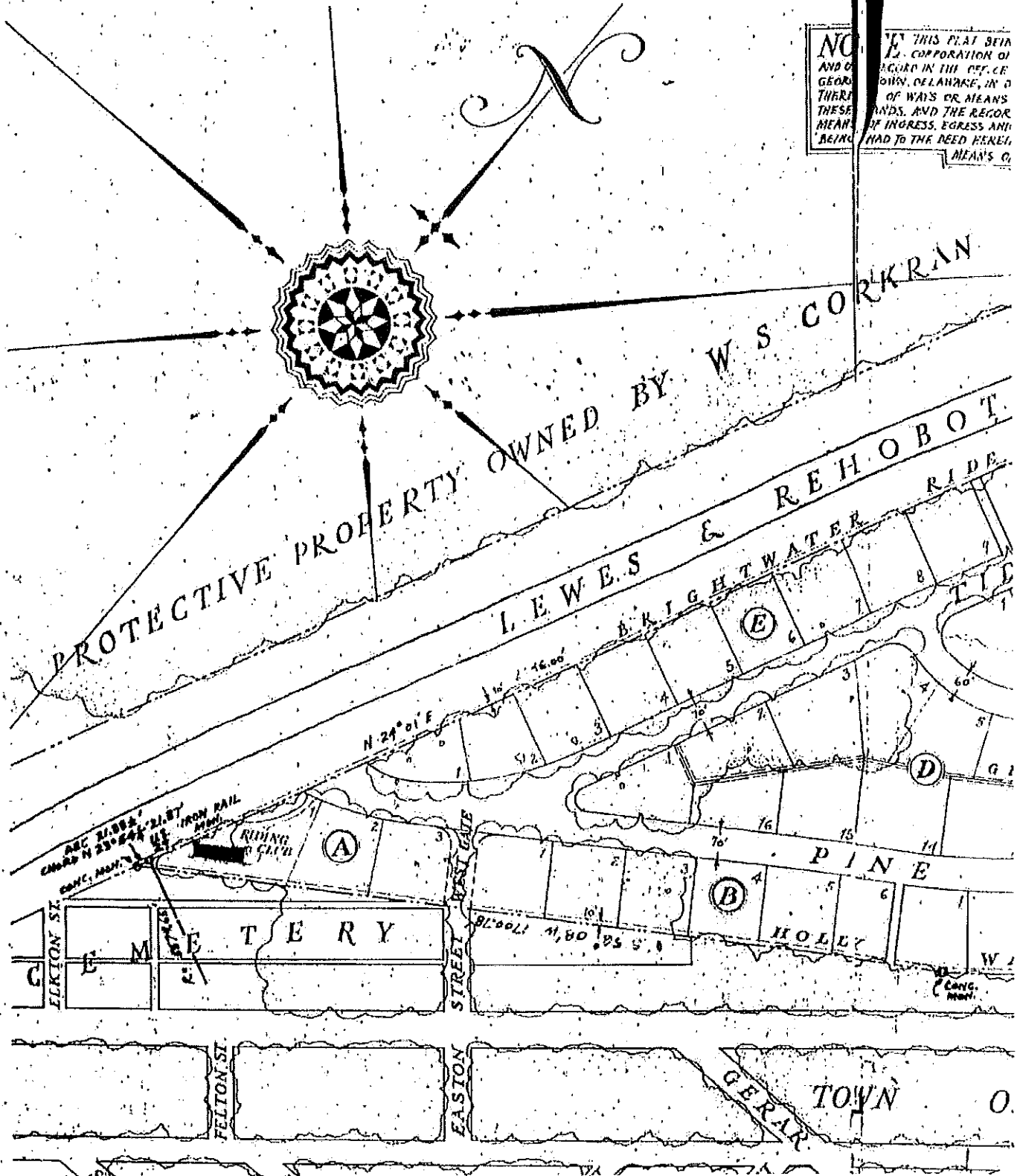
**W. S. CORKRAN, Pres.**  
 HENLOPEN ACRES, Inc.

Rehoboth Beach  
 Delaware

or

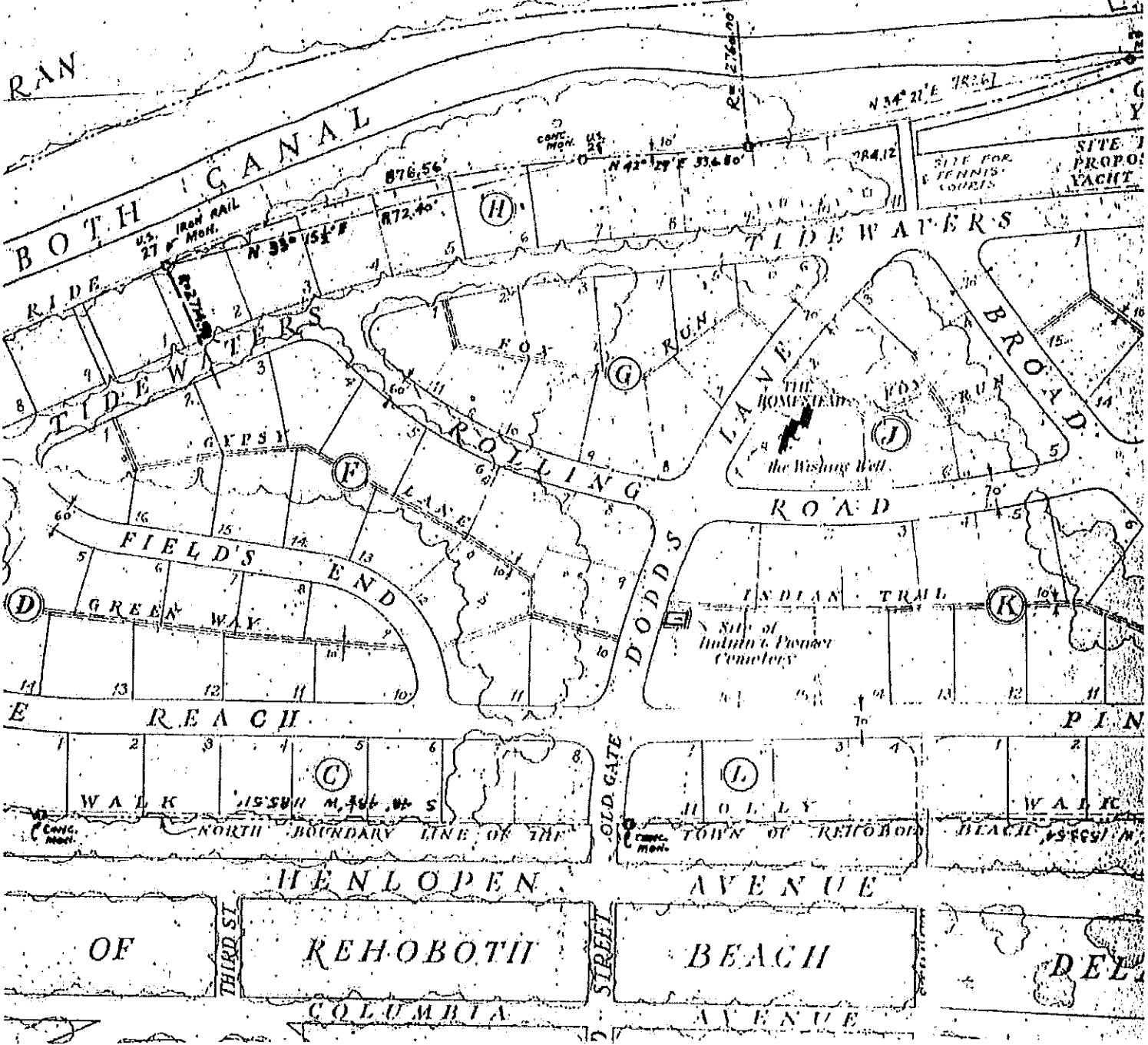
Millburn  
 New Jersey





NO THIS PLAT BEING  
 AND OF THE CORPORATION OF  
 GEORGE TOWN, DELAWARE, IN  
 THERE THESE OF WAYS OR MEANS  
 MEANS THESE LOTS, AND THE RECORD  
 BEING OF INGRESS, EGRESS AND  
 HAD TO THE DEED HEREIN  
 MEANS OF

THIS PLAN BEING THE SAME AS REFERRED TO IN DEED OF HEALOPEN ACRES, INC., A CORPORATION OF THE STATE OF DELAWARE, TO WALTER S. GORAN, DATED 11/23/20, AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, AT REHOBOTH BEACH, IN DELAWARE, IN BOOK 280, PAGE 538, THIS PLAN AND THE RECORD THEREIN SHALL NOT BE A DEDICATION OF ANY LANDS, OR WAIS OR RIGHTS OF INGRESS, EGRESS AND PASSAGE, ANY OF WHICH ARE MENTIONED IN THE RECORDS THEREOF, SHALL NOT BE A DEDICATION OF ANY LANDS, OR WAIS OR RIGHTS OF INGRESS AND PASSAGE FOR ANY PUBLIC USE WHATSOEVER, REFERENCE BEING MADE HEREAFTER MENTIONED AS TO THE USE AND OTHER PROVISION AS TO SAID WAIS OR RIGHTS OF INGRESS, EGRESS AND PASSAGE AND OTHER LANDS.



DANIEL G. ANDERSON

GORDONS COVE YACHT BASIN

SITE FOR TENNIS COURTS

SITE FOR PROPOSED YACHT CLUB

SANDY N 67°00' E 2403.57'

ERS

BOTTOM PINE'S END

BROAD

TIDE WATERS

ROLLING

ROAD

HOLLOW

ZWANENDAEL REACH

PINE

BEACH PASS

WALK

HOLLY WALK

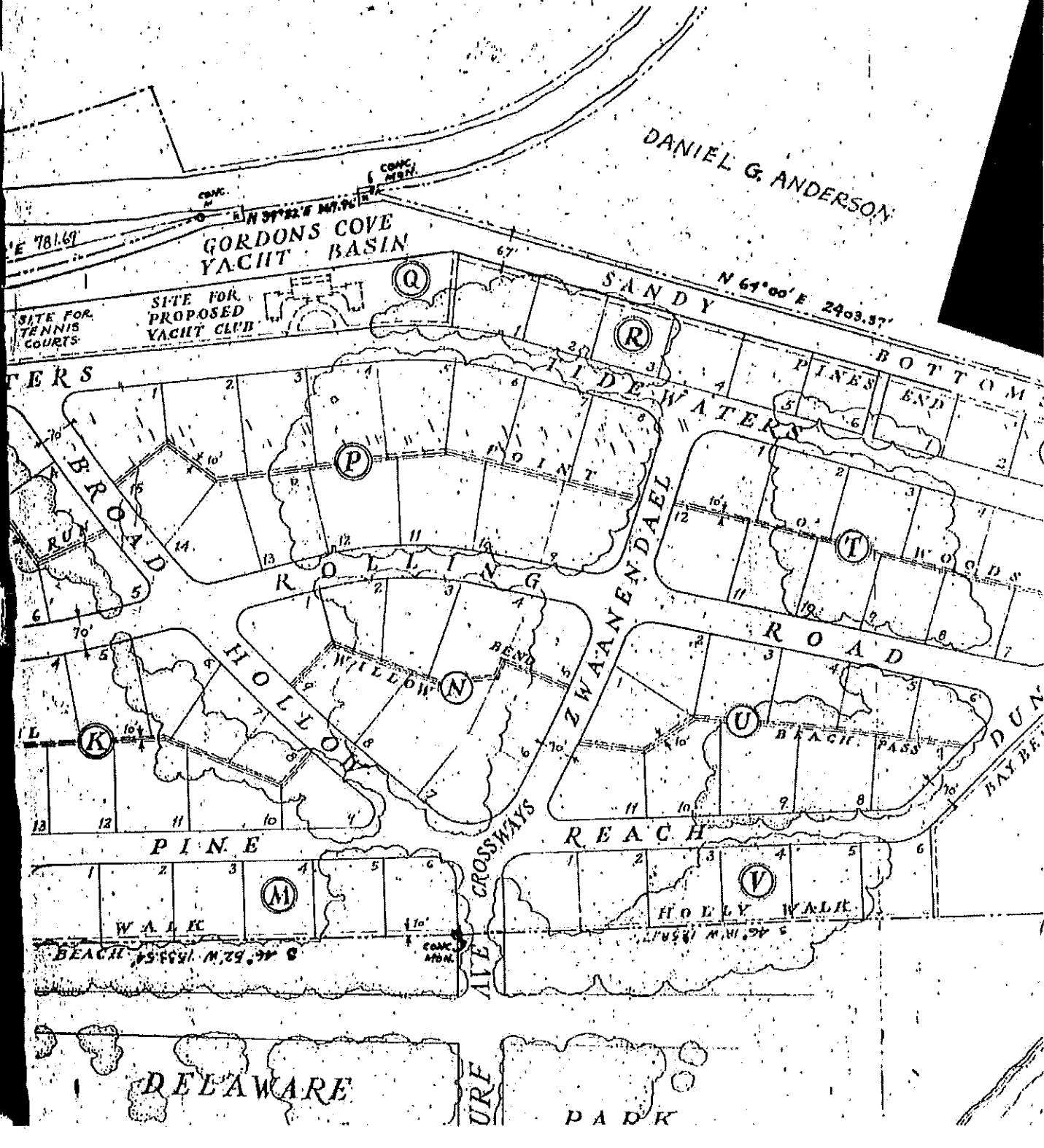
BEACH

ALLEY CROSSWAYS

DELAWARE

URE

PARK



# PLAT OF HENLOPEN ACRES

IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY DELAWARE  
ADJOINING REHOBOTH BEACH DELAWARE.

WILBUR S. CORKRAN, OWNER.

SCALE 1" = 200'



JULY 23  
1930.



ATLANTIC  
OCEAN

**Attention:** Researchers who wish to perform research on-site may make an appointment by calling (302) 744-5000 or e-mailing [archives@delaware.gov](mailto:archives@delaware.gov) More Info → (<https://archives.delaware.gov/2020/03/19/research-room-notice/>)

## Archives Menu

(<https://delaware.gov>)



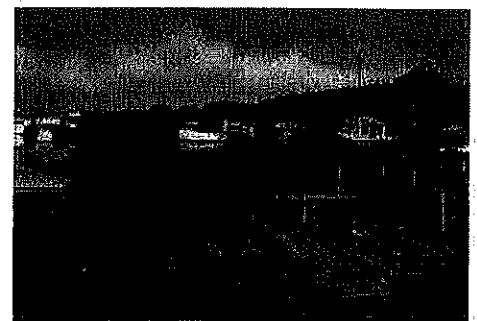
# Henlopen Acres



Select Language | ▼

RG# 7120

W.S. Corkran, an architect and engineer, purchased three tracts of land in Lewes and Rehoboth Hundred and in 1930 deeded the land to a corporation called Henlopen Acres, Inc., whose purpose was to develop a resort residential community and of which he remained a principal. The elliptically-shaped development was bounded by the Lewes and Rehoboth Canal on the northwest and west, the Town of Rehoboth Beach on the south, the Atlantic Ocean on the east and privately held lands on the north. Corkran's vision in planning residential development was to preserve the natural habitat. Although lots were generally 150' X 170,' they often varied in size in order to preserve trees and retain vistas. House designs were subject to review by a governing body. Streets were wide and followed the contour of the land. Landscaped parks, bridle paths, and a yacht club were incorporated into the design. Still subject to certain restrictions and deed covenants, Henlopen Acres is today Delaware's smallest town, being only 0.3 square miles in size with 216 parcels of land.



(<http://cdm16397.contentdm.oclc.org/cdm/comp RG 9015-028-000: Yacht Basin, Henlopen Acres>)

### 1950 – 1999

Henlopen Acres has been incorporated only once, in 1970, but its Charter has been amended many times. It was originally incorporated as the "Mayor and Commissioners of Henlopen Acres" but was known by the corporate name of "The Town of Henlopen Acres." The territorial limits described in the Charter are the same as those which were deeded to Henlopen Acres, Inc. in 1930. The Commission of Henlopen Acres consists of seven, elected members who hold two-year, staggered terms and who are required to be freeholders of the Town. The Commissioners are to choose members to serve President, who holds the title of Mayor of Henlopen Acres, and Secretary to serve one-year terms. The Mayor, who is required to be a bona fide resident, votes at Commission meetings. The Commissioners are to meet quarterly to carry out Town business. The Commissioners are also to appoint a Town Clerk to serve as the Town's administrator, keeping Town records, and collecting taxes and fees. They are also to appoint a Treasurer, who must be a resident of the Town or employed by a corporation doing business in Lewes and Rehoboth Hundred, to be the custodian of all Town funds. Three Auditors of Accounts, who are freeholders in the Town, are also appointed to one-year terms. Optional Town officials included a Board of Assessment, Town Solicitor, a Police Force, and a Beach Patrol. If no Board of Assessment is appointed, then the Commissioners are to carry out the annual valuation and assessment of all real estate. The Commissioners are to determine the number of funds that would be needed from each source of revenue available to the Town, but no maximum annual amount of taxes was cited in the Charter. The original Charter contained twenty-three enumerated powers that are vested in the Town which include providing health, peace safety, cleanliness, and good order; regulating shows and exhibitions; regulating streets; defining and preventing nuisances; providing pure water; providing a sewer system or sewage treatment and disposal plant; managing bulkheads and jetties; regulating and preserving the planting of ornamental trees; regulating parcels of ground which are deemed dangerous; numbering houses; implementing building codes; regulating the use of guns and fireworks; and implementing actions to prevent fires. The Commissioners can levy taxes and collect fines and charges for services as well as borrow money and issue bonds as long as such borrowing did not exceed 15% of the assessed value of the Town's real estate.<sup>1</sup>

The first amendments to the Charter were made in 1973. The law contained twenty-four individual changes. The more significant of these changes were: the powers in the Charter were now vested in the Town instead of the Commissioners; there were clarifications of who could vote in elections; there were also clarifications to the process for assessing taxes; the fiscal year was changed to begin July 1; the Town could levy tax on telephone, telegraph and power poles; the Town could license businesses including farm produce stands, and the per capita tax on residents was set at \$5. In another law passed later the same year, the Town was given the power to annex contiguous territory.<sup>2</sup> Three years later, in

1976, another law contained thirteen individual changes to the Charter; these would be considered technical corrections.<sup>3</sup> In 1987, the Town was given the power to float short-term debt as long as this did not exceed \$200,000 in any one year.<sup>4</sup> In 1988, changes were made to the Charter to increase the amount of a contract which the Town could enter into without competitive bidding from \$2,000 to \$20,000.<sup>5</sup> Two years later, in 1990, this amount was increased again to \$30,000, and in addition, the Town was authorized to levy tax on real estate transfers if this action was approved by referendum.<sup>6</sup> In 1992, the Charter was amended to allow for the assessment to be updated more often than annually.<sup>7</sup> A year later, a technical correction was made related to the issuing of bonds.<sup>8</sup> In 1996, a law was passed which clarified the reasons for which the Town could borrow money and issue bonds; the Town Clerk position was changed to be a Town Manager; and the Town was authorized to place a lien on property for which taxes are delinquent and to sell the property if the taxes are not paid.<sup>9</sup> In 1999, a law was passed which contained ten corrections to the Charter. Most of these were technical in nature, such as misspelled words, but there were changes to some of the duties of the Town Manager.<sup>10</sup>

## 2000 - Current

In 2001, a law passed which contained another five technical corrections to the Charter, and another law addressed the issue of who was eligible to vote in elections.<sup>11</sup> A year later, a law passed which again addressed the issue of who could vote in elections.<sup>12</sup> In 2003, the election procedures were changed so as to not require voting to take place if no one is nominated to a Commissioners seat or a seat is uncontested.<sup>13</sup> In 2005, the provisions in the Charter as to who could seek elected office were changed to require that four of the seven Commissioners be bona fide residents of the Town, not just property owners. In addition, elected officials were now to serve three-year terms.<sup>14</sup> A law passed in 2008 contained twelve changes to the Charter many of which were related to the issue of qualifications for elective office. It also addressed who was allowed to vote and clarified that those who held more than one lot were still only eligible to cast one vote. In addition, it was not required that the Treasurer must be a resident of the Town.<sup>15</sup> In 2009, there were nine changes made to the Charter related to the procedures for assessment and appeal of taxes. The Town was also given the authority to accept Sussex County's valuation of assessment rather than conduct their own assessment.<sup>16</sup> In 2014, the Charter was amended to require that the Treasurer be one of the Commissioners; their duties and responsibilities of the position were changed. In another law passed the same year, the provisions related to the qualifications of the Mayor, the Commissioners and Voters were entirely re-written so as to incorporate the many changes to these that had taken place over the years. A "real property owner" was defined and this was applied to this section.<sup>17</sup>

For the fully amended text of the current Charter, see <http://www.charters.delaware.gov/henlopenacres.shtml>  
(<http://www.charters.delaware.gov/henlopenacres.shtml>)

### CITATIONS in *Del. Laws*

<sup>1</sup> 57 *Del. Laws*, c. 504 (1970) [pp. 1377-1418]

<sup>2</sup> 59 *Del. Laws*, c. 18 (1973) [pp. 32-40]

<sup>3</sup> 60 *Del. Laws*, c. 317 (1976) [pp. 955-58]

<sup>4</sup> 66 *Del. Laws*, c. 15 (1987) [p. 25]

<sup>5</sup> 66 *Del. Laws*, c. 259 (1988) [p. 492]

<sup>6</sup> 67 *Del. Laws*, c. 213 (1990) [pp. 437-38]

<sup>7</sup> 68 *Del. Laws*, c. 427 (1992) [pp. 1305-6]

<sup>8</sup> 69 *Del. Laws*, c. 12 (1993) [p. 12]

<sup>9</sup> 70 *Del. Laws*, c. 345, c. 346, and c. 347 (1996) [p. 771, p. 772, and p. 773]

<sup>10</sup> 72 *Del. Laws*, c. 110 (1999) [p. 160]

<sup>11</sup> 73 *Del. Laws*, c. 21 and c. 159 (2001) [p. 60 and p. 408]

<sup>12</sup> 73 *Del. Laws*, c. 361 (2002) [p. 1025]

<sup>13</sup> 74 *Del. Laws*, c. 16 (2003) [p. 13]

<sup>14</sup> 75 *Del. Laws*, c. 165 (2005) p. 235-36]

<sup>15</sup> 76 *Del. Laws*, c. 346 (2008) [pp. 204-5]

<sup>16</sup> 77 *Del. Laws*, c. 41 (2009) [<http://delcode.delaware.gov/sessionlaws/ga145/chp041.shtml>  
(<http://delcode.delaware.gov/sessionlaws/ga145/chp041.shtml>)]

<sup>17</sup> 79 *Del. Laws*, c. 247 and c. 248 (2014)

[<http://delcode.delaware.gov/sessionlaws/ga147/chp247.shtml> (<http://delcode.delaware.gov/sessionlaws/ga147/chp247.shtml>)]

[<http://delcode.delaware.gov/sessionlaws/ga147/chp248.shtml> (<http://delcode.delaware.gov/sessionlaws/ga147/chp248.shtml>)]

*Delaware Laws* from 1935 to present can be found online at <http://delcode.delaware.gov/sessionlaws/>  
(<http://delcode.delaware.gov/sessionlaws/>)

## RECORDS at DPA

## Town of Henlopen Acres' records at the Delaware Public Archives include:

- Minutes of the Board of Commissioners (1970-2009): 7020-000-001
- Annual Audited Financial Statements (1970-2013): 7020-000-002
- Maps and Plots (1929-1986): 7020-000-003

jnl / August 2, 2018 | April 23, 2019

**Related Topics:** Delaware History (<https://archives.delaware.gov/tag/delaware-history/>), Henlopen (<https://archives.delaware.gov/tag/henlopen/>), Henlopen Acres (<https://archives.delaware.gov/tag/henlopen-acres/>), Town and City Histories (<https://archives.delaware.gov/tag/town-and-city-histories/>)

## Delaware's Government

Delaware's Governor (<https://governor.delaware.gov>)  
State Agencies ([https://delaware.gov/topics/agencylist\\_alpha](https://delaware.gov/topics/agencylist_alpha))  
Elected Officials (<https://delaware.gov/topics/yourgovernment>)  
General Assembly (<https://legis.delaware.gov/>)  
Delaware Courts (<https://courts.delaware.gov/>)  
State Employees (<https://dhr.delaware.gov/personnel/employee-resources.shtml>)  
Cities & Towns (<https://delaware.gov/topics/municipalities>)  
Delaware State Code (<http://delcode.delaware.gov/>)  
State Regulations (<http://regulations.delaware.gov/>)  
Business First Steps (<https://firststeps.delaware.gov/>)  
Phone Directory (<https://phonedirectory.delaware.gov>)  
Locations Directory (<https://delaware.gov/locationsdirectory/>)  
Public Meetings (<https://publicmeetings.delaware.gov/>)  
Voting & Elections (<https://elections.delaware.gov>)  
Transparency (<https://delaware.gov/topics/transparency>)  
Delaware Marketplace (<https://www.choosehealthde.com/Health-Insurance>)  
Tax Center (<https://delaware.gov/topics/TaxCenter>)  
Personal Income Tax ([https://revenue.delaware.gov/pit\\_onlinefilling.shtml](https://revenue.delaware.gov/pit_onlinefilling.shtml))  
Privacy Policy (<https://delaware.gov/help/privacy>)  
Weather & Travel (<https://delaware.gov/topics/weatherpage>)  
Contact Us (<https://delaware.gov/help/degov-contact.shtml>)  
Corporations (<https://corp.delaware.gov/>)  
Franchise Tax (<https://corp.delaware.gov/paytaxes.shtml>)  
Gross Receipts Tax (<https://grossreceiptstax.delaware.gov/grtpublic/>)  
Withholding Tax (<https://dorweb.revenue.delaware.gov/EDIOnline/EDIOnline.dll>)  
Delaware Topics (<https://delaware.gov/topics/>)  
Help Center (<https://delaware.gov/help/>)  
Mobile Apps (<https://delaware.gov/topics/apps>)  
E-mail / Text Alerts (<https://delaware.gov/topics/subscribeemail>)  
Social Media (<https://delaware.gov/topics/socialmedia>)



(<https://www.facebook.com/delaware.gov>)



([https://twitter.com/delaware\\_gov/](https://twitter.com/delaware_gov/))



([https://www.flickr.com/groups/delaware\\_gov/](https://www.flickr.com/groups/delaware_gov/))



(<https://www.youtube.com/user/DelawareGovernment>)



([https://www.instagram.com/delaware\\_gov/](https://www.instagram.com/delaware_gov/))



BAIRD  
MANDALAS  
BROCKSTEDT LLP

# EXHIBIT D





Sussex County Council  
County Administrative Offices  
2 The Circle  
Georgetown, Delaware 19947

To Whom It May Concern:

My name is David Green, and I am the founder, owner and operator of the Cape Water Tours and Taxi. Our primary boating services are offered on the Lewes & Rehoboth Canal. We have provided our unique service successfully for over ten years and look forward to many more.

I am aware of the efforts of the home-owners association in Canal Pointe to build a 30' X 30' kayak/canoe launching dock on the canal in a buffer tree area that has been converted in what they call Canal Pointe Park. I have great concerns about this proposal for the following reasons:

1. Safety

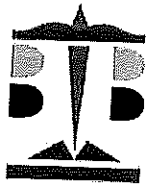
First and foremost, I believe this proposal raises great concerns for safety. The area of the Canal where the dock will be located is very narrow, with an existing passable width of only 75 feet. With the addition of this proposed dock that extends 30' into the Canal, the passable area will only be 45 feet. This is further reduced by shoaling & silting in of the canal. I believe at the very least, someone should conduct a subaqueous survey of that stretch of the canal to determine if this will become a hazard to navigation in the future.

2. Dock Design

Rather than extend 30' into the Canal, it would be far better for any dock to "hug the shoreline." Possibly the addition of an "Kayak slide ramp" might help matters even further?

Sincerely,

  
Captain David Green



BAIRD  
MANDALAS  
BROCKSTEDT <sup>LLC</sup>



# EXHIBIT E



You are currently running an experimental version of Earth.

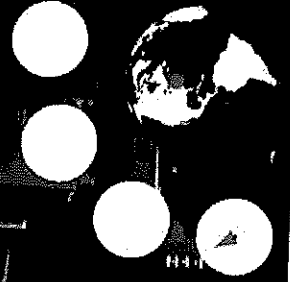
Learn more

Send feedback

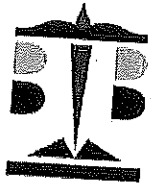


Distance   
143 ft 

 Start new 



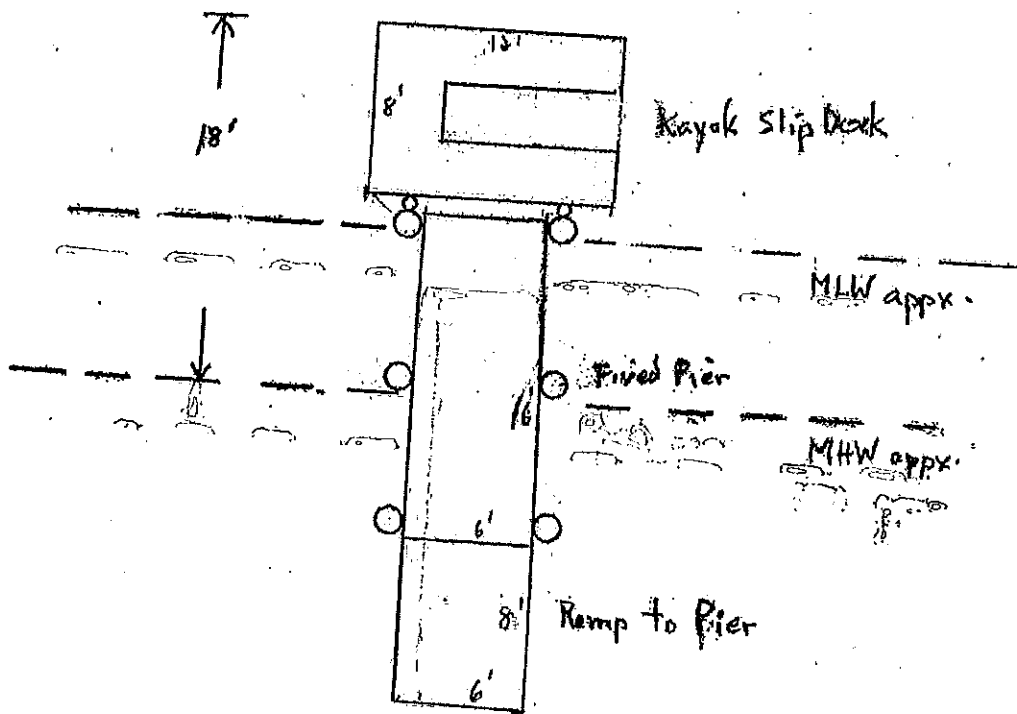
100%

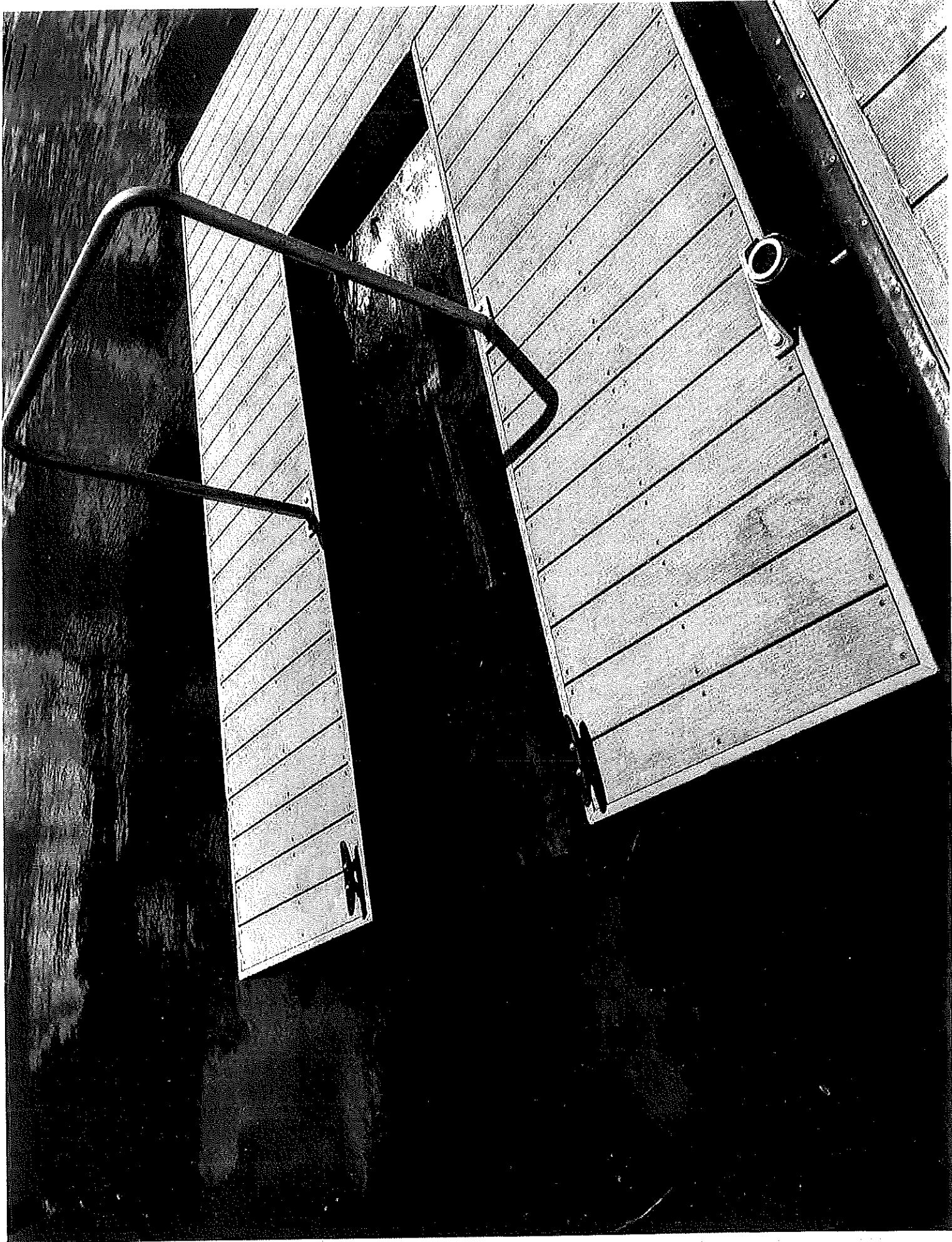


BAIRD  
MANDALAS  
BROCKSTEDT <sup>LLP</sup>

# EXHIBIT F

Proposed Kayak Dock







BAIRD  
MANDALAS  
BROCKSTEDT LLP

# EXHIBIT G

28972

BK: 4441 PG: 176

**Canal Point Subdivision**

Tax Parcel Nos:

3-34-13.00-1745.00

3-34-13.00-1746.00

Prepared by:

Canal Point, LLC

105 Foulk Road

Wilmington, DE 19803

Return to:

The Grande at Canal Pointe

Maintenance Corporation

c/o Guardian Property Management

17577 Nassau Commons Blvd, Ste 103

Lewes, DE 19958

**DEED**

**THIS DEED**, made effective as of this 15<sup>th</sup> day of September in the year Two Thousand Fifteen (2015),

**BETWEEN, CANAL POINT, LLC**, a Delaware limited liability company, party of the first part,

**AND**

**THE GRANDE AT CANAL POINTE MAINTENANCE CORPORATION**, a Delaware corporation, party of the second part.

**WITNESSETH**, that the said party of the first part, for and in consideration of the sum of TEN AND 00/100 DOLLARS (\$10.00), lawful money of the United States of America, the receipt whereof is hereby acknowledged, hereby grants and conveys unto the said party of the second part,

**BEING** all those pieces or parcels of land, hereinafter described, situate, lying and located in Lewes and Rehoboth Hundred of Sussex County, Delaware; said pieces or parcels of land being all of: Open Space Area 1, Parcel F; Open Space Area 2, Parcel G; Open Space Area 3, Parcel H; Open Space Area 4, Parcel I; Stormwater Area 1, Parcel J; Stormwater Area 2, Parcel K; Stormwater Area 3, Parcel L; all as shown on the Plot of "Canal Point, Residential

*PS*

1

*KS*



Planned Community," being of record in the Office of the Recorder of Deeds, in and for Sussex County, at Georgetown, Delaware, in Plot Book 153, Page 16 (the "Plan"); said pieces or parcels of land being more particularly described on Exhibit A attached hereto and made a part hereof.

**SUBJECT TO** the covenants, easements, conditions, and restrictions specified on the Plan.

**SUBJECT** to all easements, restrictions, reservations, encumbrances, conditions, covenants and agreements of record, this reference to which shall not be construed to re-impose the same as the case may be.

**BEING** a part of the same lands and premises conveyed by Deed of David O. Futcher and Ellen Lee Futcher, his wife, Lemuel W. Futcher, John A. Futcher, Jr., Lemuel W. Futcher as the surviving Co-Trustee under Revocable Trust Agreement of John A. Futcher, Sr. dated February 21, 1980 and Lemuel W. Futcher, Trustee under Irrevocable Trust Agreement of Emma L. Futcher dated December 7, 1993 to Canal Point, LLC, a Delaware limited liability company, dated August 27, 2004 and recorded on August 27, 2004 in the Office of the Recorder of Deeds for Sussex County, Delaware in Deed Book 3027, Page 77, in fee.

**Grantee address:**  
c/o Guardian Property Management  
17577 Nassau Commons Blvd, Ste 103  
Lewes, DE 19958

[SIGNATURE PAGE FOLLOWS]



EXHIBIT A

(Deed from Canal Point, LLC to The Grande at Canal Pointe Maintenance Corporation)

Open Space Area 1, Parcel F

BEGINNING at a point formed by the intersection of the northwesterly right-of-way line of Gloucester Drive, 50 feet wide, with the northeasterly line of Lot 63, thence,

- 1) leaving said Gloucester Drive and running by and with said Lot 63 the following two courses and distances, North 44 degrees 02 minutes 21 seconds West 100.00 feet to a point, thence running,
- 2) South 33 degrees 24 minutes 05 seconds West 112.83 feet to a point on the westerly line of Lot 64, thence,
- 3) leaving said Lot 63 and running by and with said Lot 64, South 10 degrees 09 minutes 34 seconds West 108.63 feet to a point on the westerly line of Lot 65, thence,
- 4) leaving said Lot 64 and running by and with said Lot 65, South 08 degrees 43 minutes 44 seconds East 94.20 feet to a point on the northerly line of Lot 68, thence,
- 5) leaving said Lot 65 and running by and with said Lot 68, North 72 degrees 37 minutes 29 seconds West 109.27 feet to a point, thence,
- 6) leaving said Lot 68 and running by and with said Lot 69, North 81 degrees 49 minutes 23 seconds West 86.90 feet to a point on the northerly line of Lot 70, thence,
- 7) continuing by and with said Lot 69 and running by and with said Lot 70 the following three courses, South 81 degrees 00 minutes 09 seconds West 43.97 feet to a point, thence,
- 8) continuing by and with said Lot 70, North 79 degrees 45 minutes 31 seconds West 29.60 feet to a point, thence,
- 9) still continuing by and with said Lot 70 and also running by and with Lot 71, North 87 degrees 11 minutes 41 seconds West 47.93 feet to a point, thence,
- 10) continuing by and with said Lot 71 and also running by and with Lot 72, South 71 degrees 47 minutes 29 seconds West 144.21 feet to a point, thence,
- 11) continuing by and with said Lot 72 and also running by and with Lot 73, South 03 degrees 23 minutes 44 seconds West 128.33 feet to a point on the northerly line of Stormwater Area 3, Parcel L, thence,
- 12) leaving said Lot 72 and running by and with said Stormwater Area 3, Parcel L, North 86 degrees 31 minutes 15 seconds West 18.04 feet to a point on the easterly line of Henlopen Keys Subdivision as recorded in the Office of the Recorder of Deeds, in and for Sussex County, at Georgetown, Delaware, in Plot Book 20, Page 110 and Plot Book 12, Page 32, thence,
- 13) running by and with said Henlopen Keys Subdivision the following two courses and distances, North 03 degrees 28 minutes 45 seconds East 164.02 feet to a point, thence,
- 14) North 73 degrees 37 minutes 45 seconds East 134.73 feet to a point, thence,
- 15) continuing by and with said Henlopen Keys Subdivision and also running by and with the lands of, now or formerly, Patricia R. Fraser, Vivian A. F. Fisher and William N. Fraser as recorded in the aforesaid Office of the Recorder of Deeds in Deed Book 2529, Page 148, North 47 degrees 03 minutes 50 seconds East 557.14 feet to a point, thence,
- 16) continuing by and with said lands of Fraser, North 39 degrees 47 minutes 41 seconds East 1340.10 feet to a point on the southerly line of the lands of, now or formerly, The State of

Delaware as recorded in the aforesaid Office of the Recorder of Deeds in Deed Book 2436, Page 300, thence,

17) leaving said lands of Fraser and running by and with said lands of The State of Delaware and also running by and with other lands of now or formerly, The State of Delaware as recorded in the aforesaid Office of the Recorder of Deeds in Deed Book 1947, Page 263, South 78 degrees 15 minutes 37 seconds East 2100.00 feet to a point on the westerly line of the Lewes and Rehoboth Canal, thence,

18) leaving said other lands of The State of Delaware and running by and with said Lewes and Rehoboth Canal, South 32 degrees 59 minutes 06 seconds West 744.13 feet to a point on the northwesterly line of Canal Corkran as recorded in the aforesaid Office of the Recorder of Deeds in Plot Book 69, Page 336, thence,

19) leaving said Lewes and Rehoboth Canal and running by and with said Canal Corkran the following two courses and distances, South 38 degrees 29 minutes 47 seconds West 1902.36 feet to a point, thence,

20) South 89 degrees 48 minutes 54 seconds West 641.39 feet to a point on the easterly line of Condominium Parcel C, thence,

21) leaving said Canal Corkran and running by and with said Condominium Parcel C the following four courses and distances, North 30 degrees 58 minutes 39 seconds East 141.15 feet to a point, thence running,

22) North 40 degrees 49 minutes 35 seconds West 60.69 feet to a point, thence running,

23) North 06 degrees 40 minutes 27 seconds West 52.09 feet to a point, thence running,

24) North 38 degrees 12 minutes 02 seconds East 18.26 feet to a point on the westerly line of Lot 1, thence,

25) leaving said Condominium Parcel C and running by and with said Lot 1 the following two courses and distances, South 09 degrees 49 minutes 41 seconds East 48.96 feet to a point, thence running,

26) South 40 degrees 53 minutes 53 seconds East 45.33 feet to a point on the southerly line of Lot 2, thence,

27) leaving said Lot 1 and running by and with said Lot 2, South 68 degrees 59 minutes 32 seconds East 48.90 feet to a point, thence,

28) continuing by and with said Lot 2 and also running by and with Lots 3, 4 and 5, North 84 degrees 08 minutes 26 seconds East 291.81 feet to a point on the southerly line of Lot 5, thence running,

29) continuing by and with said Lot 5, North 36 degrees 55 minutes 21 seconds East 35.70 feet to a point, thence,

30) continuing by and with said Lot 5 and also running by and with Lot 6, South 85 degrees 43 minutes 17 seconds East 53.32 feet to a point, thence,

31) continuing by and with said Lot 6, South 64 degrees 50 minutes 46 seconds East 25.40 feet to a point, thence,

32) continuing by and with said Lot 6 and also running by and with Lots 7 and 8, North 84 degrees 08 minutes 26 seconds East 153.24 feet to a point, thence,

33) continuing by and with said Lot 8 and also running by and with Lot 9, North 63 degrees 36 minutes 32 seconds East 105.46 feet to a point, thence,

34) continuing by and with said Lot 9 and also running by and with Lot 10, North 40 degrees 22 minutes 48 seconds East 113.79 feet to a point, thence,

- 35) continuing by and with said Lot 10 and also running by and with Lot 11, North 17 degrees 09 minutes 06 seconds East 111.65 feet to a point, thence,
- 36) continuing by and with said Lot 11, North 11 degrees 49 minutes 34 seconds East 49.99 feet to a point on the easterly line of Lot 12, thence,
- 37) leaving said Lot 11 and running by and with said Lot 12 and also running by and with Lots 13, 14 and 15, North 09 degrees 35 minutes 07 seconds West 308.58 feet to a point, thence,
- 38) continuing by and with said Lot 15, South 80 degrees 24 minutes 53 seconds West 113.75 feet to a point on the easterly right-of-way line of Worcester Drive, 50 feet wide, thence,
- 39) leaving said Lot 15 and running by and with said Worcester Drive, North 09 degrees 35 minutes 07 seconds West 30.00 feet to a point on the southerly line of Lot 16, thence,
- 40) leaving said Worcester Drive and running by and with said Lot 16, North 80 degrees 24 minutes 53 seconds East 113.75 feet to a point, thence,
- 41) continuing by and with said Lot 16 and also running by and with Lot 17, North 09 degrees 35 minutes 07 seconds West 110.41 feet to a point, thence,
- 42) continuing by and with said Lot 17 and also running by and with Lot 18, North 00 degrees 04 minutes 51 seconds West 50.70 feet to a point, thence,
- 43) continuing by and with said Lot 18 and also running by and with Lot 19, North 64 degrees 00 minutes 44 seconds East 102.49 feet to a point, thence,
- 44) continuing by and with said Lot 19 and also running by and with Lots 21 and 22, South 82 degrees 39 minutes 06 seconds East 124.68 feet to a point, thence,
- 45) continuing by and with said Lot 22 and also running by and with Lot 23, North 80 degrees 53 minutes 54 seconds East 166.29 feet to a point on the southeasterly line of Lot 24, thence,
- 46) leaving said Lot 23 and running by and with said Lot 24, North 43 degrees 03 minutes 59 seconds East 112.38 feet to a point on the southeasterly line of Lot 25, thence,
- 47) leaving said Lot 24 and running by and with said Lot 25 and also running by and with Lots 26, 27 and 28, North 37 degrees 44 minutes 52 seconds East 321.74 feet to a point on the easterly line of Lot 29, thence,
- 48) leaving said Lot 28 and running by and with said Lot 29, North 14 degrees 26 minutes 13 seconds East 111.61 feet to a point on the easterly line of Lot 30, thence,
- 49) leaving said Lot 29 and running by and with said Lot 30, North 06 degrees 55 minutes 37 seconds West 112.02 feet to a point on the easterly line of Lot 31, thence,
- 50) leaving said Lot 30 and running by and with said Lot 31, the following two courses and distances, North 18 degrees 40 minutes 44 seconds West 75.00 feet to a point, thence running,
- 51) continuing by and with said Lot 31, South 71 degrees 19 minutes 16 seconds West 100.00 feet to a point on the easterly right-of-way line of Gloucester Drive, 50 feet wide, thence,
- 52) leaving said Lot 31 and running by and with said Gloucester Drive, North 18 degrees 40 minutes 44 seconds West 12.16 feet to a point on the southerly line of the lands of, now or formerly, Sussex County, Delaware as recorded in the aforesaid Office of the Recorder of Deeds in Deed Book 3511, Page 343, thence,
- 53) leaving said Gloucester Drive and running by and with said lands of Sussex County, Delaware the following three courses and distances, North 71 degrees 19 minutes 16 seconds East 50.00 feet to a point, thence running,
- 54) North 18 degrees 40 minutes 44 seconds West 50.00 feet to a point, thence running,
- 55) South 71 degrees 19 minutes 16 seconds West 50.00 feet to a point on aforementioned easterly right-of-way line of Gloucester Drive, thence,

- 56) leaving said lands of Sussex County, Delaware and running by and with said Gloucester Drive, North 18 degrees 40 minutes 44 seconds West 125.03 feet to a point on the southerly line of Lot 32, thence,
- 57) leaving said Gloucester Drive and running by and with said Lot 32, North 71 degrees 19 minutes 16 seconds East 120.00 feet to a point, thence,
- 58) continuing by and with said Lot 32 and also running by and with Lots 33 and 34, North 27 degrees 09 minutes 47 seconds West 214.70 feet to a point, thence,
- 59) continuing by and with said Lot 34 and also running by and with Lot 35, North 54 degrees 38 minutes 38 seconds West 143.26 feet to a point on the northeasterly line of Lot 36, thence,
- 60) leaving said Lot 35 and running by and with said Lot 36, North 59 degrees 16 minutes 03 seconds West 39.29 feet to a point, thence,
- 61) continuing by and with said Lot 36 and also running by and with Lots 37 and 38, North 61 degrees 46 minutes 11 seconds West 181.56 feet to a point on the easterly line of Lot 39, thence,
- 62) leaving said Lot 38 and running by and with said Lot 39, North 10 degrees 41 minutes 19 seconds West 67.29 feet to a point on the northeasterly line of Lot 40, thence,
- 63) leaving said Lot 39 and running by and with said Lot 40 and also running by and with Lot 41, North 51 degrees 47 minutes 37 seconds West 139.54 feet to a point, thence,
- 64) continuing by and with said Lot 41 and also running by and with Lots 42, 43 and 44, North 77 degrees 56 minutes 36 seconds West 271.47 feet to a point, thence,
- 65) continuing by and with said Lot 44, the following two courses and distances, South 51 degrees 57 minutes 55 seconds West 26.84 feet to a point, thence running,
- 66) South 81 degrees 20 minutes 43 seconds West 48.52 feet to a point on the northerly line of Lot 45, thence running,
- 67) leaving said Lot 44 and running by and with said Lot 45 the following three courses and distances, South 80 degrees 09 minutes 33 seconds West 60.89 feet to a point, thence running,
- 68) South 46 degrees 05 minutes 54 seconds West 33.84 feet to a point, thence running,
- 69) South 22 degrees 06 minutes 33 seconds East 100.03 feet to a point on the northerly right-of-way line of the aforesaid Gloucester Drive, thence,
- 70) leaving said Lot 45 and running by and with said Gloucester Drive, the following two courses and distances, by and with a curve deflecting to the left with an arc length of 49.22 feet, a radius of 355.00 feet and a chord bearing and distance of South 63 degrees 55 minutes 09 seconds West 49.18 feet to a point of tangency, thence running,
- 71) South 59 degrees 56 minutes 51 seconds West 78.08 feet to a point on the easterly line of Lot 46, thence,
- 72) leaving said Gloucester Drive and running by and with said Lot 46, North 30 degrees 03 minutes 09 seconds West 100.00 feet to a point, thence,
- 73) continuing by and with said Lot 46 and also running by and with Lot 47, South 59 degrees 56 minutes 51 seconds West 150.00 feet to a point on the northerly line of Lot 48, thence,
- 74) leaving said Lot 47 and running by and with said Lot 48, South 58 degrees 27 minutes 51 seconds West 86.42 feet to a point on the northwesterly line of Lot 49, thence,
- 75) leaving said Lot 48 and running by and with said Lot 49, South 41 degrees 21 minutes 47 seconds West 107.50 feet to a point on the northwesterly line of Lot 50, thence,
- 76) leaving said Lot 49 and running by and with said Lot 50, South 30 degrees 05 minutes 30 seconds West 77.22 feet to a point on the northwesterly line of Lot 51, thence,

- 77) leaving said Lot 50 and running by and with said Lot 51, South 30 degrees 11 minutes 20 seconds West 70.12 feet to a point on the northerly line of Lot 52, thence,
- 78) leaving said Lot 51 and running by and with said Lot 52 the following two courses and distances, South 65 degrees 35 minutes 23 seconds West 45.08 feet to a point, thence running,
- 79) South 12 degrees 35 minutes 14 seconds East 54.31 feet to a point on the northwesterly line of Lot 53, thence,
- 80) leaving said Lot 52 and running by and with said Lot 53, the following two courses and distances, South 56 degrees 55 minutes 29 seconds West 6.23 feet to a point, thence,
- 81) North 52 degrees 50 minutes 34 seconds West 59.63 feet to a point, thence,
- 82) continuing by and with said Lot 53 and also running by and with Lots 54 and 55, South 56 degrees 55 minutes 30 seconds West 198.60 feet to a point on the westerly line of Lot 56, thence,
- 83) leaving said Lot 55 and running by and with said Lot 56, the following three courses and distances, South 27 degrees 02 minutes 23 seconds West 27.95 feet to a point, thence running,
- 84) South 40 degrees 53 minutes 04 seconds West 23.96 feet to a point, thence running,
- 85) North 85 degrees 33 minutes 11 seconds West 34.98 feet to a point on the northerly line of Lot 57, thence,
- 86) leaving said Lot 56 and running by and with said Lot 57, the following three courses and distances, South 78 degrees 55 minutes 04 seconds West 19.26 feet to a point, thence running,
- 87) South 43 degrees 54 minutes 06 seconds West 36.93 feet to a point, thence running,
- 88) South 03 degrees 42 minutes 27 seconds West 28.46 feet to a point, thence,
- 89) continuing by and with said Lot 57 and also running by and with Lot 58, North 80 degrees 44 minutes 57 seconds West 41.18 feet to a point, thence,
- 90) continuing by and with said Lot 58, South 50 degrees 42 minutes 37 seconds West 20.60 feet to a point, thence running,
- 91) continuing by and with said Lot 58, South 32 degrees 41 minutes 02 seconds West 41.04 feet to a point on the northerly line of Lot 59, thence,
- 92) leaving said Lot 58 and running by and with said Lot 59 the following four courses and distances, continuing South 32 degrees 41 minutes 02 seconds West 6.11 feet to a point, thence running,
- 93) South 76 degrees 19 minutes 49 seconds West 44.48 feet to a point, thence running,
- 94) South 24 degrees 42 minutes 06 seconds West 41.90 feet to a point, thence running,
- 95) South 42 degrees 21 minutes 49 seconds West 36.70 feet to a point on the northerly line of Lot 60, thence,
- 96) leaving said Lot 59 and running by and with said Lot 60, the following two courses and distances, South 47 degrees 51 minutes 16 seconds West 46.49 feet to a point, thence running,
- 97) South 33 degrees 15 minutes 08 seconds West 31.74 feet to a point on the northerly line of Lot 61, thence,
- 98) leaving said Lot 60 and running by and with said Lot 61, continuing South 33 degrees 15 minutes 08 seconds West 30.77 feet to a point, thence,
- 99) continuing by and with Lot 61 and also running by and with Lot 62, South 31 degrees 24 minutes 26 seconds West 57.82 feet to a point, thence,
- 100) continuing by and with Lot 62, the following four courses and distances, South 13 degrees 47 minutes 36 seconds West 21.89 feet to a point, thence running,
- 101) South 28 degrees 07 minutes 28 seconds East 48.11 feet to a point, thence running,
- 102) South 47 degrees 53 minutes 24 seconds East 61.33 feet to a point, thence running,

- 103) South 62 degrees 58 minutes 43 seconds East 42.99 feet to a point on the aforementioned northerly right-of-way line of Gloucester Drive, thence,  
104) leaving said Lot 62 and running by and with said Gloucester Drive, the following two courses and distances, by and with a curve deflecting to the right with an arc length of 63.32 feet, a radius of 125.00 feet and a chord bearing and distance of South 44 degrees 07 minutes 25 seconds West 62.65 feet to a point of reverse curvature, thence running,  
105) by and with a curve deflecting to the left with an arc length of 42.20 feet, a radius of 175.00 feet and a chord bearing and distance of South 51 degrees 43 minutes 39 seconds West 42.10 feet to the point and place of beginning;

CONTAINING 32.6141 acres of land, more or less.

**Open Space Area 2, Parcel G**

BEGINNING at a point formed by the intersection of the southwesterly right-of-way line of Hebron Road, 70 feet wide, with the northwesterly line of Senior Center Area, Parcel D of "Canal Point, Residential Planned Community," being of record in the Office of the Recorder of Deeds, in and for Sussex County, at Georgetown, Delaware, in Plot Book 153, Page 16, thence,

- 1) leaving said Hebron Road and running by and with said Parcel D, South 57 degrees 56 minutes 48 seconds West 243.22 feet to a point on the northeasterly line of "Sandalwood Subdivision", being of record in the aforementioned Office of the Recorder of Deeds in Plot Book 32, Page 327, thence,
- 2) leaving said Parcel D and running by and with said "Sandalwood Subdivision", North 32 degrees 00 minutes 46 seconds West 266.19 feet to a point on the southeasterly line of Residual Lands Area 1, Parcel M of "Canal Point, Residential Planned Community," being of record in the aforementioned Office of the Recorder of Deeds in Plot Book 153, Page 16, thence,
- 3) leaving said "Sandalwood Subdivision" and running by and with said Parcel M, North 38 degrees 14 minutes 37 seconds East 270.59 feet to a point, thence,
- 4) continuing with said Parcel M and also running by and with the lands of, now or formerly, David O. Futchter and Ellen Lee Futchter, being of record in the aforementioned Office of the Recorder of Deeds in Deed Book 1887, Page 75, North 32 degrees 00 minutes 46 seconds West 305.30 feet to a point on the aforementioned right-of-way line of Hebron Road, thence,
- 5) leaving said lands of Futchter and running by and with said right-of-way line of Hebron Road, the following seven courses and distances, North 83 degrees 25 minutes 18 seconds East 23.73 feet to a point, thence running,
- 6) South 51 degrees 34 minutes 42 seconds East 53.22 feet to a point of curvature, thence running,
- 7) by and with a curve deflecting to the right with an arc length of 245.95 feet, a radius of 370.00 feet and a chord bearing and distance of South 32 degrees 32 minutes 07 seconds East 241.45 feet to a point of reverse curvature, thence running,
- 8) by and with a curve deflecting to the left with an arc length of 268.88 feet, a radius of 830.00 feet and a chord bearing and distance of South 22 degrees 46 minutes 21 seconds East 267.71 feet to a point of tangency, thence running,



- 9) South 32 degrees 03 minutes 12 seconds East 81.87 feet to a point, thence running,
- 10) South 57 degrees 56 minutes 48 seconds West 10.00 feet to a point, thence running,
- 11) South 32 degrees 03 minutes 12 seconds East 14.83 feet to the point and place of beginning;

CONTAINING 2.2291 acres of land, more or less.

**Open Space Area 3, Parcel H**

BEGINNING at a point formed by the intersection of the southwesterly right-of-way line of Hebron Road, 70 feet wide, with the northwesterly line of "West Rehoboth Subdivision", being of record in the Office of the Recorder of Deeds, in and for Sussex County, at Georgetown, Delaware, in Plot Book 2, Page 3 and Plot Book 8, Page 483, thence,

- 1) leaving said Hebron Road and running by and with said "West Rehoboth Subdivision", South 30 degrees 54 minutes 55 seconds West 285.58 feet to a point on the northeasterly line of "Sandalwood Subdivision", being of record in the aforementioned Office of the Recorder of Deeds in Plot Book 32, Page 327, thence,
- 2) leaving said "West Rehoboth Subdivision" and running by and with said "Sandalwood Subdivision", North 32 degrees 00 minutes 46 seconds West 321.90 feet to a point on the southerly line of Parcel K of "Canal Point, Residential Planned Community," being of record in the aforementioned Office of the Recorder of Deeds in Plot Book 153, Page 16, thence,
- 3) leaving said "Sandalwood Subdivision" and running by and with said Parcel K, North 57 degrees 56 minutes 48 seconds East 254.15 feet to a point on the aforementioned southwesterly right-of-way line of Hebron Road, thence,
- 4) leaving said Parcel K and running by and with said right-of-way line of Hebron Road, South 32 degrees 03 minutes 12 seconds East 192.11 feet to the point and place of beginning;

CONTAINING 1.5000 acres of land, more or less.

**Open Space Area 4, Parcel I**

BEGINNING at a point formed by the intersection of the northeasterly right-of-way line of Mersey Drive, 50 feet wide, with the southeasterly line of Lot 275 of "Canal Point, Residential Planned Community," being of record in the Office of the Recorder of Deeds, in and for Sussex County, at Georgetown, Delaware, in Plot Book 153, Page 16, thence,

- 1) leaving said Mersey Drive and running by and with said Lot 275 the following two courses and distances, North 51 degrees 21 minutes 13 seconds East 94.90 feet to a point, thence running,
- 2) North 27 degrees 37 minutes 25 seconds West 86.10 feet to a point on the southerly line of Lot 77 of said "Canal Point, Residential Planned Community", thence,
- 3) leaving said Lot 275 and running by and with said Lot 77, North 62 degrees 22 minutes 35 seconds East 107.13 feet to a point on the westerly right-of-way line of Oxford Court, 50 feet wide, thence,

- 4) leaving with said Lot 77 and running by and with said right-of-way line of Oxford Court, the following two courses and distances, South 23 degrees 12 minutes 42 seconds East 40.22 feet to a point of curvature, thence running,
- 5) by and with a curve deflecting to the right with an arc length of 27.43 feet, a radius of 25.00 feet, and a chord bearing and distance of South 08 degrees 13 minutes 24 seconds West 26.08 feet to a point of reverse curvature on the westerly right-of-way line of the transition from said Oxford Court to Limerick Drive, 60 feet wide, thence,
- 6) leaving said Oxford Court and running by and with said transition with a curve deflecting to the left with an arc length of 82.41 feet, a radius of 114.00 feet and a chord bearing and distance of South 18 degrees 56 minutes 59 seconds West 80.63 feet to a point of reverse curvature on the northwesterly right-of-way line of said Limerick Drive, thence,
- 7) leaving said transition and running by and with said Limerick Drive, the following two courses and distances, with a curve deflecting to the right with an arc length of 39.18 feet, a radius of 35.00 feet and a chord bearing and distance of South 30 degrees 18 minutes 31 seconds West 37.16 feet to a point of tangency, thence running,
- 8) South 62 degrees 22 minutes 35 seconds West 65.21 feet to a point of curvature on the aforementioned northeasterly right-of-way line of Mersey Drive, thence,
- 9) leaving said Limerick Drive and running by and with said right-of-way line of Mersey Drive, the following two courses and distances, with a curve deflecting to the right with an arc length of 35.32 feet, a radius of 25.00 feet, and a chord bearing and distance of North 77 degrees 08 minutes 39 seconds West 32.46 feet to a point of reverse curvature, thence running,
- 10) by and with a curve deflecting to the left with an arc length of 11.24 feet, a radius of 325.00 feet, and a chord bearing and distance of North 37 degrees 39 minutes 20 seconds West 11.24 feet to the point and place of beginning;

CONTAINING 13,313 square feet of land, more or less.

**Stormwater Area 1, Parcel J**

BEGINNING at a point formed by the intersection of the westerly right-of-way line of Worcester Drive, 50 feet wide, with the northerly line of Lot 232, thence,

- 1) leaving said Worcester Drive and running by and with said Lot 232 and also running by and with Lots 233, 234 and 235, South 80 degrees 24 minutes 53 seconds West 321.15 feet to a point on the northerly line of Lot 236, thence,
- 2) leaving said Lot 235 and running by and with said Lot 236, South 87 degrees 54 minutes 25 seconds West 50.44 feet to a point on the northeasterly line of Lot 237, thence,
- 3) leaving said Lot 236 and running by and with said Lot 237, North 52 degrees 43 minutes 24 seconds West 72.99 feet to a point on the northerly line of Lot 238, thence,
- 4) leaving said Lot 237 and running by and with said Lot 238, North 63 degrees 48 minutes 31 seconds West 109.69 feet to a point on the northerly line of Lot 239, thence,
- 5) leaving said Lot 238 and running by and with said Lot 239 and also running by and with Lots 240 and 241, North 79 degrees 13 minutes 58 seconds West 215.96 feet to a point on the southeasterly line of Lot 210, thence,

- 6) leaving said Lot 241 and running by and with said Lot 210 and also running by and with Lots 211, 212 and 213, North 35 degrees 02 minutes 57 seconds East 329.61 feet to a point on the southeasterly line of Lot 214, thence,
- 7) leaving said Lot 213 and running by and with said Lot 214, North 30 degrees 55 minutes 17 seconds East 38.46 feet to a point on the southeasterly line of Lot 215, thence,
- 8) leaving said Lot 214 and running by and with said Lot 215 and also running by and with Lots 216, 217, 218, 219 and 220, North 56 degrees 55 minutes 30 seconds East 438.49 feet to a point on the southeasterly line of Lot 221, thence,
- 9) leaving said Lot 220 and running by and with said Lot 221, South 82 degrees 04 minutes 39 seconds East 28.04 feet to a point on the southeasterly line of Lot 222, thence,
- 10) leaving said Lot 221 and running by and with said Lot 222 and also running by and with Lots 223 and 224, South 49 degrees 35 minutes 34 seconds East 208.04 feet to a point on the northwesterly line of Lot 226, thence,
- 11) leaving said Lot 224 and running by and with said Lot 226 and also running by and with Lot 227, South 40 degrees 23 minutes 28 seconds West 153.60 feet to a point on the westerly line of Lot 228, thence,
- 12) leaving said Lot 227 and running by and with said Lot 228, South 24 degrees 49 minutes 39 seconds West 109.69 feet to a point on the westerly line of Lot 229, thence,
- 13) leaving said Lot 228 and running by and with said Lot 229, South 04 degrees 16 minutes 46 seconds West 112.87 feet to a point on the westerly line of Lot 230, thence,
- 14) leaving said Lot 229 and running by and with said Lot 230 and also running by and with Lot 231, South 09 degrees 35 minutes 07 seconds East 152.15 feet to a point, thence,
- 15) continuing by and with said Lot 231, North 80 degrees 24 minutes 53 seconds East 100.00 feet to a point on the aforementioned westerly right-of-way line of Worcester Drive, thence,
- 16) leaving said Lot 231 and running by and with said Worcester Drive, South 09 degrees 35 minutes 07 seconds East 18.86 feet to the point and place of beginning;

CONTAINING 6.4187 acres of land, more or less.

**Stormwater Area 2, Parcel K**

BEGINNING at a point formed by the intersection of the southwesterly right-of-way line of Hebron Road, 70 feet wide, with the northwesterly line of Parcel H of "Canal Point, Residential Planned Community," being of record in the Office of the Recorder of Deeds, in and for Sussex County, at Georgetown, Delaware, in Plot Book 153, Page 16, thence,

- 1) leaving said Hebron Road and running by and with said Parcel H, South 57 degrees 56 minutes 48 seconds West 254.15 feet to a point on the northeasterly line of "Sandalwood Subdivision", being of record in the aforementioned Office of the Recorder of Deeds in Plot Book 32, Page 327, thence,
- 2) leaving said Parcel H and running by and with said "Sandalwood Subdivision", North 32 degrees 00 minutes 46 seconds West 282.95 feet to a point on the southeasterly line of Parcel D of "Canal Point, Residential Planned Community," being of record in the aforementioned Office of the Recorder of Deeds in Plot Book 153, Page 16, thence,

- 3) leaving said "Sandalwood Subdivision" and running by and with said Parcel D, North 57 degrees 56 minutes 48 seconds East 253.95 feet to a point on the aforementioned southwesterly right-of-way line of Hebron Road, thence,
- 4) leaving said Parcel D and running by and with said right-of-way line of Hebron Road, South 32 degrees 03 minutes 12 seconds East 282.95 feet to the point and place of beginning;

CONTAINING 1.6502 acres of land, more or less.

Stormwater Area 3, Parcel L

BEGINNING at a point formed by the intersection of the northerly right-of-way line of Mersey Drive, 50 feet wide, with the easterly line of Lot 280, thence,

- 1) leaving said Mersey Drive and running by and with said Lot 280 the following two courses and distances, North 12 degrees 10 minutes 30 seconds West 100.00 feet to a point, thence running,
- 2) South 72 degrees 05 minutes 40 seconds West 90.97 feet to a point on the northerly line of Lot 281, thence,
- 3) leaving said Lot 280 and running by and with said Lot 281 and also running by and with Lot 282, South 62 degrees 22 minutes 35 seconds West 137.82 feet to a point, thence,
- 4) continuing by and with said Lot 282 and also running by and with Lot 283, South 25 degrees 52 minutes 32 seconds West 85.13 feet to a point, thence,
- 5) continuing by and with said Lot 283 and also running by and with Lot 284, South 67 degrees 37 minutes 06 seconds West 92.56 feet to a point on the northerly line of Lot 285, thence,
- 6) leaving said Lot 284 and running by and with said Lot 285 and also running by and with Lot 286, South 81 degrees 53 minutes 09 seconds West 155.04 feet to a point on the easterly line of Lot 288, thence,
- 7) leaving said Lot 286 and running by and with said Lot 288 and also running by and with Lot 289, North 00 degrees 14 minutes 10 seconds East 119.92 feet to a point on the southeasterly line of Lot 290, thence,
- 8) leaving said Lot 289 and running by and with said Lot 290, North 38 degrees 28 minutes 45 seconds East 99.46 feet to a point on the southwesterly line of Henlopen Keys Subdivision as recorded in the aforesaid Office of the Recorder of Deeds in Plot Book 20, Page 110 and Plot Book 12, Page 32, thence,
- 9) leaving said Lot 290 and running by and with said Henlopen Keys Subdivision, the following seven courses and distances, South 51 degrees 31 minutes 15 seconds East 107.01 feet to a point, thence running,
- 10) North 54 degrees 23 minutes 50 seconds East 180.73 feet to a point, thence running,
- 11) South 86 degrees 31 minutes 15 seconds East 50.00 feet to a point, thence running,
- 12) North 03 degrees 28 minutes 45 seconds East 70.00 feet to a point, thence running,
- 13) by and with the arc of a curve deflecting to the right with an arc length of 47.12 feet, with a radius of 30.00 feet, the chord of which bears North 48 degrees 28 minutes 59 seconds East 42.42 feet to a point, thence running,
- 14) South 86 degrees 31 minutes 15 seconds East 120.00 feet to a point, thence running,

- 15) North 03 degrees 28 minutes 45 seconds East 35.99 feet to a point on the southerly line of Open Space Area 1, Parcel F, thence,
- 16) leaving said Henlopen Keys Subdivision and running by and with said Open Space Area 1, Parcel F, South 86 degrees 31 minutes 15 seconds East 18.04 feet to a point on the southwesterly line of Lot 73, thence,
- 17) leaving said Open Space Area 1, Parcel F and running by and with said Lot 73 and also running by and with Lot 74, South 32 degrees 04 minutes 09 seconds East 145.65 feet to a point on the northerly line of Lot 279, thence,
- 18) leaving said Lot 74 and running by and with said Lot 279, the following two courses and distances, South 86 degrees 14 minutes 00 seconds West 91.00 feet to a point, thence running,
- 19) South 09 degrees 20 minutes 44 seconds East 100.00 feet to a point on the aforementioned northerly right-of-way line of Mersey Drive, thence,
- 20) leaving said Lot 279 and by and with said northerly right-of-way line of Mersey Drive, along the arc of a curve deflecting to the left with an arc length of 16.05 feet, with a radius of 325.00 feet and a chord bearing and distance of South 79 degrees 14 minutes 23 seconds West 16.05 feet to the point and place of beginning;

CONTAINING 1.6575 acres of land, more or less.

Consideration: .00

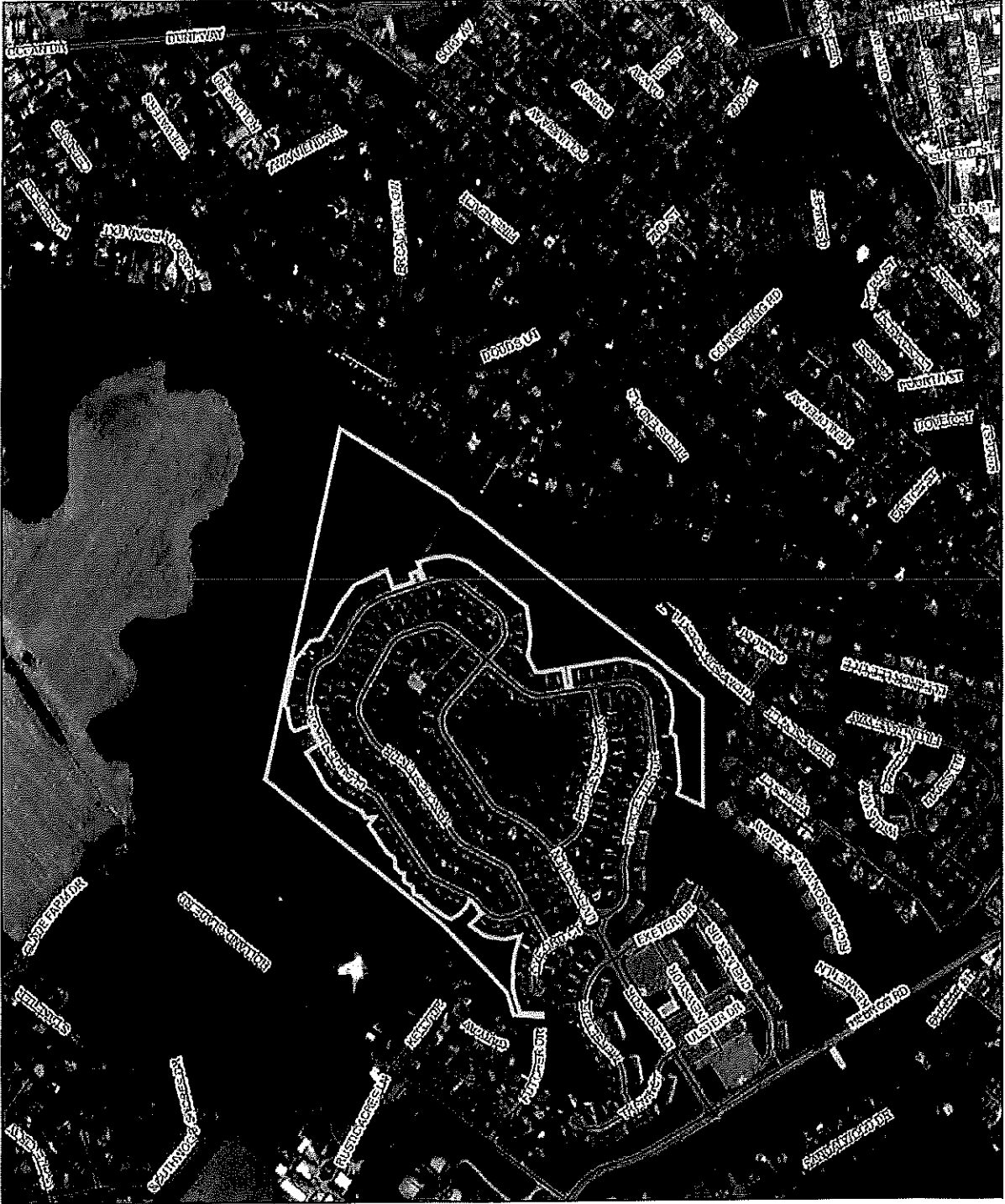
Recorder of Deeds  
 Scott Dailey  
 Sep 02, 2015 02:07P  
 Sussex County  
 Doc. Surcharge Paid

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 County .00  
 State .00  
 Town Total .00  
 Received: Kara S Sep 02, 2015

RECEIVED  
 SEP 02, 2015  
 ASSESSMENT DIVISION  
 OF SUSSEX COUNTY



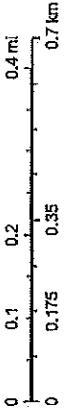
# Sussex County



<b>PIN:</b>	334-13.00-1745.00
<b>Owner Name</b>	THE GRANDE AT CANAL POINT MAINTENANCE
<b>Book</b>	4441
<b>Mailing Address</b>	PO BOX 1418
<b>City</b>	REHOBOTH BEACH
<b>State</b>	DE
<b>Description</b>	CANAL POINT OPEN
<b>Description 2</b>	AREAS 1234 PARCELS
<b>Description 3</b>	F G H I
<b>Land Code</b>	

- polygonLayer  
 Override 1
- polygonLayer  
 Override 1
- Tax Parcels  
 Streets  
 County Boundaries

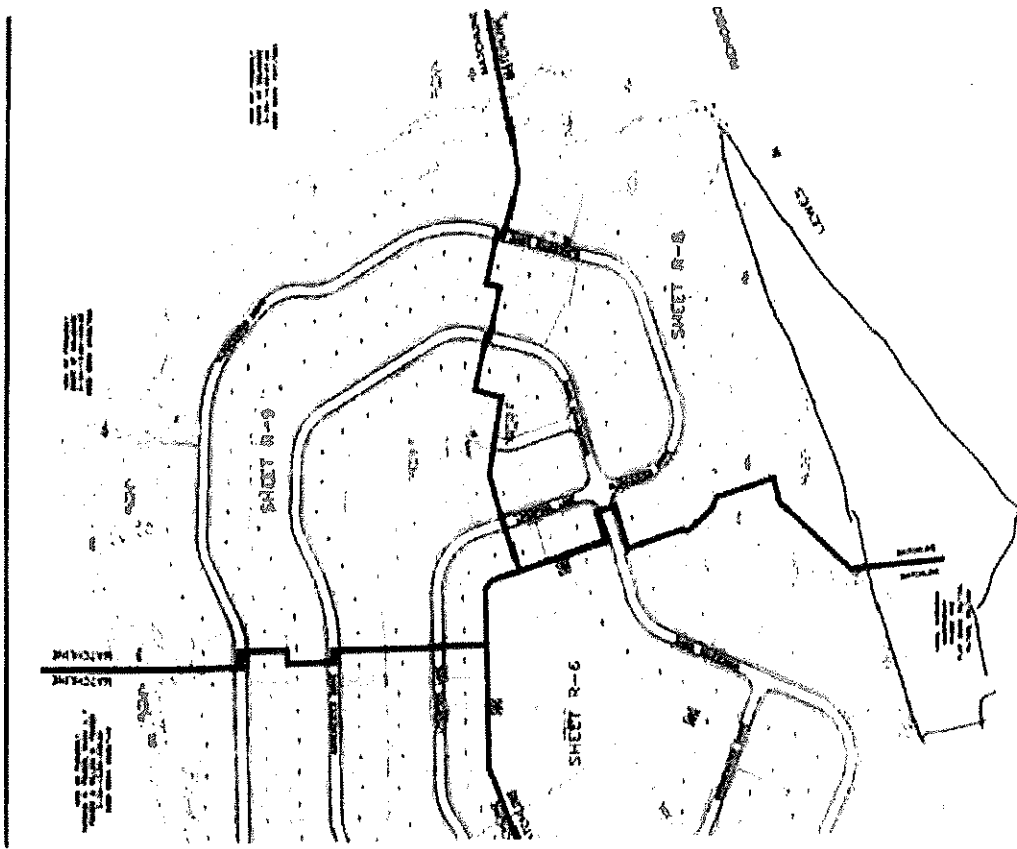
1:9,028





BAIRD  
MANDALAS  
BROCKSTEDT LLP

# EXHIBIT H



1. Check for accuracy  
 2. Check for consistency with  
 3. Check for completeness  
 4. Check for clarity





BAIRD  
MANDALAS  
BROCKSTEDT LLC

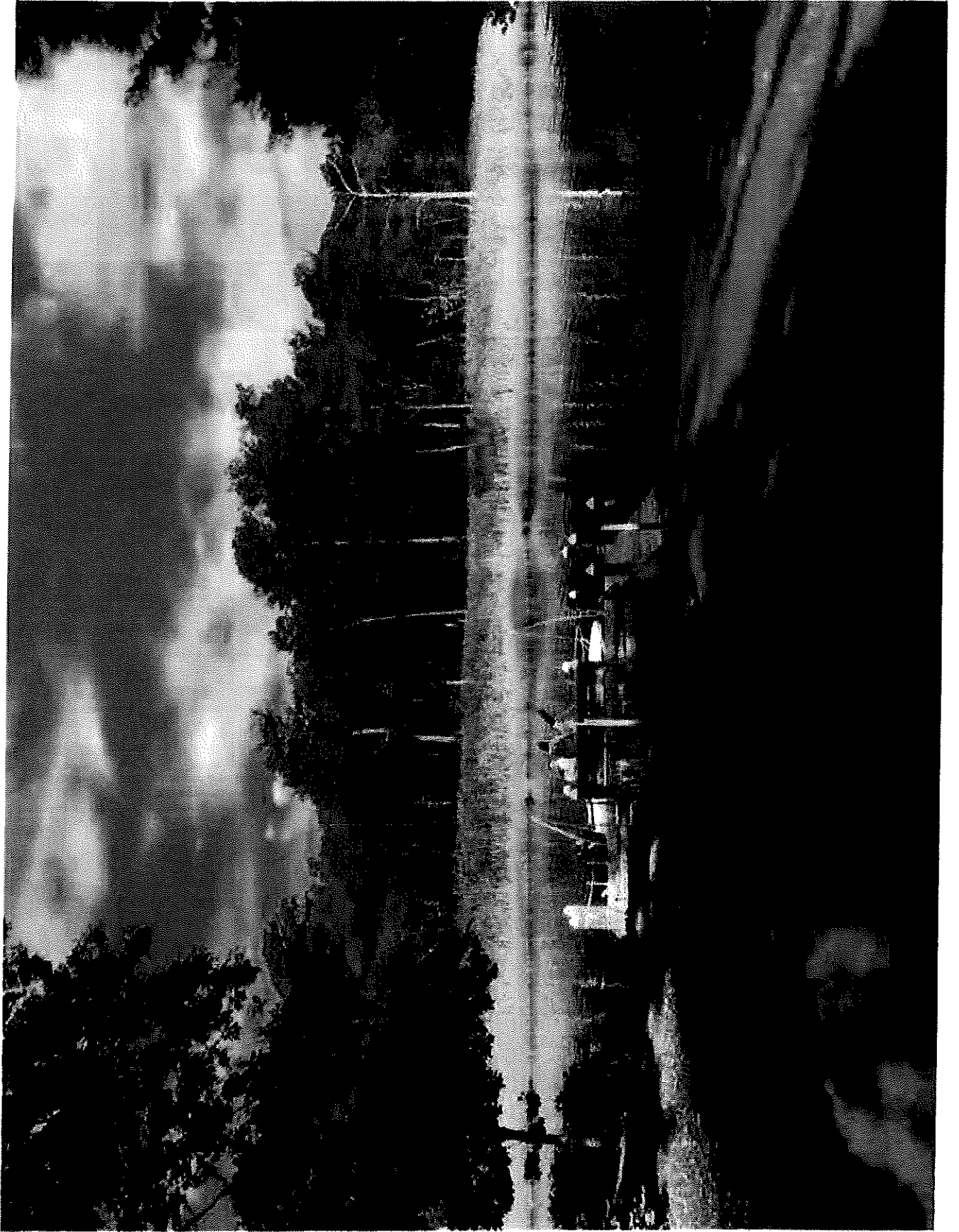
# EXHIBIT I





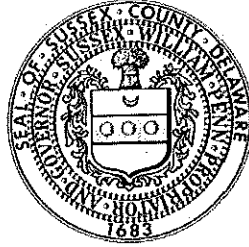
BAIRD  
MANDALAS  
BROCKSTEDT LLP

# EXHIBIT J





JAMIE WHITEHOUSE, AICP  
PLANNING & ZONING DIRECTOR  
(302) 855-7878 T  
(302) 854-5079 F  
jamie.whitehouse@sussexcountyde.gov



**Sussex County**  
DELAWARE  
sussexcountyde.gov

June 10, 2021

Re: Tax ID: 433-6.00-2.00

Dear Cindy/Kellar Williams,

As requested, please find the following sections of the Sussex County Code in regards to the residential home grandfathered onto a (C-2) General Commercial zone.

**§ 115-199 Damage or destruction.**

If a building is damaged by any natural causes, such as fire, wind or flood, it may be repaired or reconstructed and used as before the time of damage, provided that such repairs or reconstruction are substantially completed within 12 months of the date of such damage.

If the building were to be damaged by natural causes, it would then need to be rebuilt with the exact footprint of the original building. If the exact footprint cannot be met, a variance would need to be applied and approved by the Board of Adjustment before another dwelling could be built in its place.

If you have any further questions, please feel free to contact the office at 302-855-7878.

Sincerely,

Ashley Paugh  
Clerk II of Planning and Zoning



COUNTY ADMINISTRATIVE OFFICES  
2 THE CIRCLE | PO BOX 417  
GEORGETOWN, DELAWARE 19947

## Jamie Whitehouse

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**From:** Town Clerk Henlopen Acres <townclerk@henlopenacres.com>  
**Sent:** Friday, June 11, 2021 3:56 PM  
**To:** Jamie Whitehouse  
**Subject:** Zoning Amendment for Canal Pointe  
**Attachments:** Opposition letter from Mayor Joni Reich to Zoning Amendment for Canal Pointe.pdf

CAUTION: This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Good Afternoon,

Attached please find a letter from Mayor Joni Reich regarding the Zoning Amendment for Canal Pointe.

Thank You.

--  
Lisa Michaels  
Town Clerk-Henlopen Acres  
104 Tidewaters  
Henlopen Acres, DE 19971  
302-227-6411 Phone  
302-227-3978 Fax

**FILE COPY**

Town of Henlopen Acres  
104 Tidewaters  
Henlopen Acres, Delaware 19971

Phone: 302-227-6411  
Fax: 302-227-3978

June 11, 2021

VIA EMAIL TO: Jamie.whitehouse@sussexcountyde.gov

**FILE COPY**

Sussex County Council  
2 The Circle  
P.O. Box 417  
Georgetown, DE 19947

RE: Case No. C/Z 1926 - Zoning Amendment for Canal Pointe

To the Council Members:

The Commissioners of the Town of Henlopen Acres respectfully wish to provide the following statement on the pending application for a Zoning Amendment by CP Townhomes LLC and the Canal Pointe Maintenance Corporation.

We are a small, incorporated municipality of 200 homes on 156 acres that borders the Lewes & Rehoboth Canal and is directly opposite the Grande at Canal Pointe development. Our community greatly values the protection of environmentally sensitive areas and safety along the Canal, and the preservation of a tranquil environment for our residents.

The Zoning Amendment request before the Council would completely remove Condition 15 from Ordinance 1700 which established the Original Conditions for the development in 2004. Condition 15 stipulates as follows:

“15. No piers, docks, boat ramps, or other water related recreational facilities shall be permitted.”

We do not believe that Condition 15 should be waived in its entirety, as requested by the Applicant. The County’s planning process for the development, which the County Council gave final approval to in 2004, should be respected and not set aside without compelling reason, which we do not find evidence of. Conditions such as this help ensure that new developments are not disruptive to existing small communities and that natural buffers are protected to preserve the environment and effectively screen one development from another.



If the Council, however, does find compelling reason to grant relief to the Applicant, we believe only a limited modification of Condition 15 should be made, with the following restrictions:

1. The dock is of a limited size as to not create a safety hazard to other boat traffic in the Canal and to accomplish the limited activity of launching kayaks and canoes into the Canal;
2. Motorized boats and jet skis are not permitted;
3. Other related structures are prohibited in the dock area, such as lighting, bathrooms, and storage racks, and
4. Plantings and vegetation are restored along the Canal to preserve the buffers, natural environment, and habitat for critical wildlife, including eagles, herons, and egrets.

We believe the above position is consistent with the recommendation made by the Planning & Zoning Commission on May 13, 2021, and achieves the objectives of the Canal Pointe residents to enjoy access to the Canal while preserving harmony with its neighbors in the Acres.

Thank you for the opportunity to provide comment on this important matter.

Sincerely,



Joni Reich

Mayor, Town of Henlopen Acres

cc: Commissioners  
Glenn Mandalas, Attorney